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Natural Resources Committee
February 28, 2007

[LB701]

SENATOR CHRISTENSEN: Thank you, Chairman Loudon and fellow senators. I am going to take just a minute to update everybody. Many of you know my daughter had a wreck last night. They are flying her down here now to Lincoln. They found additional problems in the vertebra's and fragmentation so just to update you, they are flying her down here now, so I don't know if I'll be here at closing or not, but I will get this opened up. Just wanted to update everybody where that's at. I want to thank everybody for coming today. I know a lot of you have traveled great distances and have a long way to go home yet. I just want to explain a little bit about what we are trying to do here with this legislation. You know we have many problems in the basin meeting the compliance issue. You know you heard director Ann Bleed about we're working together, the entities are working close together. But our ultimate goal is to protect us from being shut up by a judge and not getting something accomplished that needs to be done to meet this compliance in the compact. And I'll be the first to say that it's not an easy issue, there's not any perfect solutions. But when I got in the race to become a Senator, you know, I run on water and issues to try to bring some responsibility through the agencies and the state working together to find a solution. Many of you know I've just recently changed my bill. Monday and Tuesday probably got on the Internet if you got a recent copy, I have addressed several issues that seemed to be disliked by a lot of people. The NRDs across the state didn't like the transfers, the Republican River Basin didn't like the basin-wide committee. And no one liked the huge property tax increase in there. And as you've all heard my urban friends don't necessarily want to fund the project. So it's going to take cooperation, working together and I just ask you to think about, as I was willing to address parts in the bill, I'm willing to add parts back if there's parts that are needed. I'm willing to listen to what other people have to say about this bill. I just ask you as you are talking about problems that you see, let's bring forth solutions. We are all in this together and we all got to have a positive mind working together to succeed in here. What this bill does is requires the elimination of any overages that occur in years after it is reported. Doing this by reduction of ground water pumping from 65 to 70 percent of what is required, surface water diversions, only allowing them to get 75 percent of what's available and by the state looking at additional items to meet compliance. Whether it be the vegetation that Senator Carlson's bill dealt with or it be land retirement as we've looked at in the past, it's going to take a cooperative group. There's many good things about this bill. I know when you first look at water- short allocation maybe I should just step back and say the first...this bill allows you to freeze the allocation at 2006-2007 levels except for water-short years giving us a plan that is kind of two-tiered to address the shortness but opened up some freedoms that wasn't allowed in all basins. That is the ability to move water between ground that you own, the ability to purchase water from a neighbors, willing seller-willing buyer, but not to move it closer. You have to buy close to stream and move away. Why? Because we can't affect the timing that would short the streams and cause further compliance problems. Even though I don't even like some of these suggestions and as a lot of us didn't like water

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meters, we didn't like original IMPs, we've learned to manage to round them; we have learned to work together. I believe this is a group that will work together again to find the best solutions. This bill allows participation in programs that will reduce consumptive use and increase water supplies that benefits individuals and the state. This gives the maximum local independent control when farmers can move their own water around. They can look at doing vegetation management to increase their own allocations when they can look at doing things on a personal level, the NRD level, as well as the state level. It's putting all three groups working together. Why is this good? It's going to keep us in compliance as a state. This approach here requires no taxes. You've heard many NRDs say they would like to be able to supplement a plan. That's something that can be worked on. That's something if they'll bring forth and talk to us as a committee that can be done also. That's the advantage right here being a public hearing. The Unicameral is unique about this, every bill gets a hearing that has public input. So everybody can step up here. You may not like something in my bill but you can offer something that's better. Everything may not be exactly what you want but we can all work together to make it better. You know only those that need more water will have to pay for more water. That's the advantage of willing buyer-willing seller. It leaves the DNR and NRDs with the authorities that they need. During control years only the allocation is set equally across the basin according to the gross water irrigation need. You know, and this budget I've proposed so far lives within the Governor's budget. This takes into account all the causes of stream flow depletions whether it be conservation, vegetation, ground water pumping, or surface water. I ask you to think about it. It's always easy to disagree with something; it's harder to bring forth the solution. That's why through this process...of the original LB701, I met with the NRDs, I met with surface irrigation, I met with water lobbyists, I met with senators and said, my door is open, let's visit, let's make something that's good for Nebraska. Let's meet the compliance and let's take this challenge head on. I'd be willing to address any questions. [LB701]

SENATOR LOUDEN: Thank you, Mark. I certainly want to add my condolences and the committee's condolences and we hope your daughter turns out quite well for you. Questions for Senator Carlson...oh, Christensen. (Laughter) And it's only four o'clock and it's a long day. [LB701]

SENATOR CHRISTENSEN: It's hard when you get started...that wrong, and it stays. [LB701]

SENATOR LOUDEN: Senator Wallman. I can get that straight. (Laughter) [LB701]

SENATOR WALLMAN: Thank you, Senator Christensen for bringing this. I agree with you and it's nice to have all these people in here about concerns and I too wish the best for your daughter. I've went through an accident myself so I know it's pretty traumatic. And it's pretty nice to see the hearing rooms packed, concerns, and hopefully we can work something out this year and I think we should, you know? Hold us to it. And I'm

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proud to see farmers in here; I'm a farmer myself, so, thanks, Mark. Tom? [LB701]

SENATOR LOUDEN: Other questions for Senator Christensen? Senator Hudkins. [LB701]

SENATOR HUDKINS: Thank you. Senator Christensen, we have heard a lot about the Republican River Basin and how that there just isn't enough water for Kansas. I received the last few days and I wouldn't be surprised if every senator received the last few days, a series of pictures on where did all of water go? And there were some aerial shots of places in Kansas that after a rain or after a snow, I couldn't tell, but the terraces were full of water, the ponds were full. We have done what the federal government said that we should do in building ponds, building stock ponds, building terraces, planting along a stream bed so we don't have the runoff, so we have done all of that. And now are we being penalized because now we don't have the runoff into the river. A two-part question, and if we don't implement this bill or some type of this bill, what happens? [LB701]

SENATOR CHRISTENSEN: Okay, thank you. Yes, and we'll be shown some of those exact pictures. We had them on charts here but I'm going to let Steve take that part of it. Conservation has caused a lot of the reduction of flows. And I've often given this example, I hate to take a lot of time, but you know, there's a registered-looking reservoir south of my dad's house, holds 235 acre feet of water that ran over every year in the '40s and '50s and '60s and in the '70s it slowed down a little bit; '80s it dropped a lot, '90s dropped drastically and in 2000s it never ran over until last week. This...but quickly what happened in those years...in the '70s we were putting in terraces, farm ponds. In the '80s we went to eco fallow, we were growing two crops out of three instead of one out of two, and now in the 2000s we went to continuous farming being wheat, corn, wheat corn, never working the ground. Holding the water on the ground, turning it into beneficial use of a crop, held back by terraces, held back by grass. Also in the '90s CRP came in, additional grass, less ground, running. That's the scenario that we've operated in plus we've run through a drought. And if you look at...I was just floored when I called my dad and said, how well is the dam filling up? He said, started running over this morning. I believe that was about last Thursday. You know? It filled that fast. Just by getting return to good moisture like we're seeing now. The Republican River Basin has always been a runoff river. And we have reduced some of that by our farming practices, by our conservation as you mentioned, by allowing vegetation. Senator Carlson dealt along the streams. This has caused a lot of that too. What was your second question? [LB701]

SENATOR HUDKINS: What happens if we don't do something? [LB701]

SENATOR CHRISTENSEN: Okay. If we do nothing...this is my opinion, is we will stay out of compliance, then a judge will shut us off. And then we're at the mercy of a judge

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saying or thinking well, I think you've done a good job, I'm going to let you continue being out of compliance. Or is he going to say, I don't think you've done everything that you could have and I'm going to shut everything off. He might choose to just shut off the quick-response, he may choose to shut off the whole basin. That would have disastrous effects to our economies, to our land values. Can you imagine if there was no irrigated land values in our school districts? For about four or five years everything had to revert to dry land? I'd just like to have you think about what would it do to your school? I can tell you...to shut it down. It'll shut your county offices. It would be a disaster. We do have to address this problem. [LB701]

SENATOR LOUDEN: Are there other questions for Senator Christensen? Senator Dubas. [LB701]

SENATOR DUBAS: Thank you, Senator Louden. Thank you, Senator Christensen. Forgive me if you gave this answer in your opening, I was a little bit late getting back here, but how did you come up with the allocations for the different areas? [LB701]

SENATOR CHRISTENSEN: Okay. The allocations in the normal year based off of what they've had in the last IMPs, in a water-short year, it takes a gross irrigation chart that has been distributed by DNR, and then you can see that in that book that I've handed out here. And then what I did was adjusted that to county boundaries. And then I took between 60 to 70 percent of what the gross irrigation need is for 50 to 60 percent, maybe it was, and assessed that to be the value. I tried to round to the nearest inch. I got one of them at a half there, you know? That could get to a very even one but you are going to have to go to maybe it's 8.6 and 7.1 and things that way. But wherever, I've tried to stay to a pretty even number but that goes off the gross irrigation requirements from DNR. [LB701]

SENATOR DUBAS: Thank you. [LB701]

SENATOR LOUDEN: Other questions for Senator Christensen? Seeing none, Mark, we'll wait and see whether or not you decide to close. [LB701]

SENATOR CHRISTENSEN: Okay, thanks. [LB701]

SENATOR LOUDEN: I believe that's your prerogative. Next? I presume you're his special witness and okay we'll give you 10 minutes then Steve and that's what you need? [LB701]

STEVE SMITH: That will be fine. Thank you very much. Senator Louden, Senators on the committee, I appreciate your time. My name is Steve Smith, that's S-t-e-v-e S-m-i-t-h. I am the director of WaterClaim which is a nonprofit organization dedicated to researching water and providing water ideas and solutions. There are 13 watersheds in

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Nebraska. Two of them have some serious challenges and one has a serious crisis. We have a 2007 deadline by which we must comply with. We had a chart made up for you. I put that up there so everyone can see it. You will also see that same chart on page 28 of your book. What that chart shows...the blue area is the allocation. That's the amount of water that Nebraska is allowed to have and use on an annual basis. The red line is the consumptive use. That's what Nebraska is charged with using on an annual basis. There's been a lot of people who have said that ground water users have overdeveloped, who have exploited the system. But I'd like to have you notice that the red line has gone down. That means the consumptive use has been going down over the last several years. Much of that is surface water reductions because there hasn't been any water. But it is also because ground water usage has also gone down. That red line is like a freight train. You slam on the breaks and it take a long time before it has a result. Ninety-three to ninety-four percent of that red line comes from prior year pumping. So when my father was pumping 30 or 40 years ago, it still has an effect on the stream today. So if I turn off my well today I won't have a benefit immediately. That benefit will be strung out over a number of years. I guess what I'd like you to notice as you look at that chart that what we are required to do as a state is either pull the red line down below the blue or raise the blue area above the red. Either one of those are acceptable options. Anytime the red line is above the blue, Nebraska is out of compliance. And the Supreme Court of the United States says you must change that on a five-year average. And if Harlan County Reservoir is low you must do it on a two- or three-year average. The original green bill that you have looked at over the last several weeks said that the best way to do that is to have a group called the Basin Administration Committee across the district, decide the best way to accomplish that--by either raising the blue line or lowering the red line further. However, the current version of this bill says maybe the best way to do that is to allow a requirement of all irrigators, both ground water and surface irrigators, to make significant painful reductions. And that's also on the map there that's a...in your booklet here. I'd be happy to explain in more detail how that worked. So we asked irrigators, both ground water and surface water irrigators, to make significant, painful reductions, ones which none of us like. In exchange, we are asking the State of Nebraska to make up the difference for the things that we cannot control. What the current version of LB701 does is takes a look at the causes of depletion. And Dan, if you wouldn't mind, would you bring up that chart, the one that you have referenced there Senator Hudkins? Conservation has a major impact on stream flows. According to Roger Patterson and you'll find his references there in your booklet as well, has indicated that over 50 percent of the depletions to the streams are caused by conservation. I think it's just behind that map there, Dan, that is in page 31 of your folder. That's where Roger Patterson makes the quote, it's about half way down, it's highlighted I think in some of the versions we gave out. Those of you who just received a copy, we did not have time to highlight it. There's also included in your booklet what we call the Koelliker study. It's a study done by Kansas State University who went in and took a look at how much the effects of conservation is on the streams. And as you can take a look at from the posters and the charts and the pictures that you

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have, in your booklets there's additional pictures that are not here, on the wall. All of those light-colored lines there are water. These pictures were taken in Kansas by Jim and Chris Thom. They flew over the area. In fact I think they gave Ann Bleed a tour yesterday in their airplane to show. And from what I understand and I have not done it myself, but as you fly over the area, the effects of conservation are dramatic, very visible. But what I'd like to emphasize is what you see here in these pictures is nothing compared to the invisible effects of conservation. As we do minimum till, as we do no-till farming, we capture more water on the field; it's a wonderful thing. And I would like to emphasize, we do not want to remove conservation, there is no request to do so. The terraces are good. The minimum tillage and the conservation affects that we do are wonderful things. They help protect us from flooding. They protect our water quality. They protect our water quantity. They help us with our fields. They are very, very good things. But it's just like fire. Used properly, fire is a good thing. But sometimes fire has a bad effect as well when it's gone out of control. I encourage you as you take a look at...what we are asking the farmers to do as irrigators, both ground water and surface irrigators, to make significant, painful cuts. But we are asking the State of Nebraska to pick up the responsibility for the things which are beyond the control of any one individual: those things meaning, such as conservation. We don't want to remove them but we have to make up for them and compensate for them. So what this bill does is ask ground water irrigators to make a reduction of approximately 30 to 45 percent of what they need to make a good crop. We ask surface irrigators to sacrifice 25 percent of the available water and I can guarantee you that both of those requests is causing me to wear a Kevlar and asbestos jacket right now because there's a lot of people who do not like that; it's a painful sacrifice. And they believe this is a problem caused by the state and they don't appreciate the idea that they should be asked to make painful cuts. But we are doing it because what we ask in exchange is that the State of Nebraska step in and pick up what we as individuals, cannot do. There are three escape routes for irrigators: number one they can move water from one field to another which is something the Upper Republican and Middle Republican currently allows; the Lower Republican does not. That's an easy thing. The second thing that we can do is that we can purchase water from each other, so as long as the total allowance does not go up, I can buy water from you or sell water to you as long as the water moves away from the stream. So for example if Senator Carlson is closer from the stream I may come to him and I may purchase water from him if he agrees to sell it to me. Willing buyer-willing seller. If he doesn't want to sell to me, I can't buy. But that would be a second way that I would be allowed to increase my allocation. The third way that I could increase my allocation is that I would be able to participate in government programs which are, excuse me, not government programs but programs which are designed to reduce consumptive use on behalf of and for the benefit of, the State of Nebraska. So for example if I wanted to go out and I wanted to chop down a bunch of trees and Senator Carlson's bill does and I say, I want to do even more. Maybe I've got 20 acres of trees on my property and I'd like to thin those out and reduce the amount of water that they use. I would go to the DNR, ask them to review that benefit, they would assign a benefit.

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Maybe they assign it five-acre feet. I would then be able to take that five-acre feet and use it on my field to increase my usage or I could sell it to my neighbor who thought it was more valuable to him. So even though we make these painful reductions, there are ways for irrigators to go ahead and increase their usage as they must. Some of them will choose to live with these allocations. They will say, I can do that, and that's a good thing. That's a wonderful thing for the state and for everyone else and the state benefits from that. Why is this bill good? It's good because it keeps the State of Nebraska in compliance. Compliance is required. If we go over, as soon as we find out that we've gone over, we must eliminate that in the following year. There are no tax requirements and I can tell you nobody likes to be taxed and this eliminates the requirements for those. Only those that need more water pay for the fee to do so. It leaves the DNR and NRDs with the authority they currently have. And during a control year only the allocation is set across the basin based on people's needs, so 75 percent or 70 percent of what they actually need according to the DNR. The budget is within the budget set by the Governor. Two point seven million dollars we believe is sufficient. There are two primary concerns that people have about this new idea. Those primary concerns are: they don't like the idea of the Legislature setting allocations. They believe that should be local control and I agree it should be local control. And if I am an NRD I do not appreciate the state legislature coming in and doing that for me. But I don't know of any other way to demonstrate to the Legislature that we've...are willing to make significant sacrifices in order to protect our overall benefit. In other words, we are willing to lose an arm in order to save our life. Now if the Legislature will trust us to make those reductions without legislating it we'd be happy to do that and promise you that we will. But that's why it's here. Maybe there's a better way other than the Legislature setting the allocations and if there is we'd be happy to find a way to do that. The second concern and it's a very legitimate concern, is by asking surface irrigators to give up 25 percent of their water--we are asking them to give up a piece of property that they own and they do. According to Nebraska's Constitution, once we've given an allocation to someone it becomes a piece of property that they have a right to continue. And we are asking them to sacrifice that 25 percent involuntarily. Based on all of the research that we have done, my discussions with the state's attorney, it is our belief that when you have to comply with the compact, it is legal and permissible to do that but that will be up to you to discuss with the Attorney General to get his opinion on it and make your own decision. It is within the prerogative of this committee to say, we believe that we should compensate those people as we remove part of their rights. And if that's what we do it causes an increase in the cost of this bill, but it could very well be the correct thing to do. But either way it is legal in my opinion. [LB701]

SENATOR LOUDEN: Questions for Steve? Senator Hudkins. [LB701]

SENATOR HUDKINS: Thank you. Mr. Smith, were you about to make another point and got cut off? [LB701]

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STEVE SMITH: I was actually going to summarize what I said but I'm sure you have a very good memory and I don't need to do that. (Laughter) [LB701]

SENATOR HUDKINS: Thank you. You have given us a lot of information. Going to the surface water irrigators though, I got lost in the middle somewhere. So if you have surface water rights and you have been told by your local NRD, this only affects the Republican River Basin? [LB701]

STEVE SMITH: This bill addresses the Republican River Basin only. [LB701]

SENATOR HUDKINS: Yeah. So those irrigators then, what compensation perhaps could they get for having to give up part of that property that you call it... [LB701]

STEVE SMITH: Right. Just to be clear, the ground water irrigator which is regulated by the NRDs, makes a reduction in allocation but gets no compensation for doing so. [LB701]

SENATOR HUDKINS: Right. [LB701]

STEVE SMITH: The surface water irrigator is regulated by the Department of Natural Resources. The NRDs have no authority over surface irrigation. If this legislation were to pass as written there would be a request by the surface irrigators, not a request, but an order to sacrifice 25 percent of the available water. So if there's ten thousand acre-feet of water in a reservoir that could be delivered to the field, twenty-five-acre feet would run down the stream and the other 7,500 acre-feet would be available for distribution on the field. This bill does not provide compensation for that loss of 2,500-acre feet. If the Legislature sees that wise and prudent to provide compensation you can and should. If the Legislature decides not to it is my belief that it legally doesn't have to. [LB701]

SENATOR HUDKINS: So then those surface water irrigators who are being taxed and they are, as irrigators, then if they would have to revert to dry land, could they go back to their local assessor and say, I have been deprived of this water. Now I am a dry land farmer and my taxes should be lowered accordingly? [LB701]

STEVE SMITH: I don't think that will happen and here's why. The bill also has a provision that there is always a minimum amount of water for the surface irrigator that cannot be taken. So once we drop below four inches then the irrigator either then gets all of it or he gets compensated at 100 percent of that loss if it is taken. Secondly many of the surface areas, not all, by my estimate approximately half, have both ground water and surface irrigation water. Those individuals that have that would be in a wonderful position that they would still be able to use their ground water use. Those which only have surface irrigation are currently having a great sacrifice. Many of them have lost

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their water for a variety of reasons. Conservation is part of it. The drought is a part of it. Ground water pumping is a part of it, and vegetation is a part of it. And those individuals have sacrificed a great deal and they are being asked yet to make another 25 percent reduction. And many of them consider that to be totally unacceptable and I understand. But if we do not have an allowance on how much water each group can use then it's impossible to budget, it's impossible to comply, and it's impossible to do what we have to do. [LB701]

SENATOR HUDKINS: Thank you. [LB701]

SENATOR LOUDEN: Are there other questions? Senator Dubas. [LB701]

SENATOR DUBAS: Thank you, Senator Louden. Thank you, Mr. Smith. You made a comment that you thought there would be some producers who would be able to live within their allocation. Would you have any idea how many you think that could actually do their job and live within the allocation of water? [LB701]

STEVE SMITH: Thank you, Senator Dubas. For example those farmers which may not have an irrigation well that can produce as well as another guy's irrigation well, are currently living with less. So for example, the residents of Dundy County which is in the extreme southwest corner of Nebraska, many of their wells are simply not capable of producing as much. As a result they have a lower land value because they are not able to pump their full allocation. Those individuals receive less corn yield as a typical result. That means that they don't do it by choice but they do. There are some people who are very efficient with their operations. They have mastered everything...maybe they happened to be fortunate and they lived in the right spot where it rained this year. And so some people would be able to successfully live with that; some people will not. In fact my farm would not. Let me give you one other way of doing it. My farm for example, two years ago, survived with a nine-inch allocation even though I live in the Upper Republican. That's how much water was distributed on my field. The reason I was able to live with that low amount of water is because we had a crop rotation. We had some dry beans, we had some potatoes, we had some corn, etcetera. Some of those crops use much less water. The problem is that's not an option for most people. The Farm Bill, the way the federal program works, you cannot do that. And some people can and some cannot. And it's not because of management necessarily, it's because of the way our system has chosen to work. [LB701]

SENATOR DUBAS: Thank you. [LB701]

SENATOR LOUDEN: Other questions for Steve? Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. Thank you, Mr. Smith, for being here. Did I understand you correctly when you said surface water users would be

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required to cut back 25 percent with no compensation? [LB701]

STEVE SMITH: That is correct. [LB701]

SENATOR FISCHER: How can you...do you believe the Legislature can make a blanket requirement to cut all surface waters 25 percent in the basin when their rights are different than ground water users' rights? The surface water, it goes by, you know, first-in-time. So you are saying the person that has the oldest right is going to be cut back 25 percent to the person who filed a right a week ago? And do you believe that's legal? [LB701]

STEVE SMITH: Senator Fischer, thank you for the question. Yes and no to your question (laugh). Here's the no part. The no part is it is a first-in-time system. Therefore if there is insufficient water to distribute to all users, those which have the junior rights, lose those rights. And so if there was a 25 percent reduction and that caused a reduction, there would be a 25 percent--or some of those individuals have no water while the others still receive their full amount--that would be the way that system works. However, in practicality the surface irrigation districts have chosen to treat the entire ditch usually as one right with an equal date. So therefore all of them are treated the same. Now there may be differences from ditch to ditch. Secondly, the yes part is I do believe the Legislature has the authority to do that when it is referencing an interstate compact compliance and it is based upon what is called the Hinderliter case out of Colorado and New Mexico. But I am sure you don't want to hear about all the legalese about that and I would defer that to Dave Cookson or Jon Bruning as you decide to talk with them and ask them. I am definitely not an attorney and I can guarantee you that their answers will be much better than mine. [LB701]

SENATOR FISCHER: Thank you. [LB701]

SENATOR LOUDEN: Are there other questions? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden and Steve. I'm really not going to ask you a question here. I guess I'm going to take the prerogative that I have of making a statement, and I indicated to Senator Christensen that I would doing this. First of all the positive things about LB701, is that it acknowledges that ground water pumping is not the only cause of depletions to the river. The bill encourages transfers and that's going to be an important tool. The bill allows for the buying and selling of allocations which is another tool. And it encourages the savings of water in high-flow years for use in the later year. Now the negatives that I see in LB701, the bill sets specific allocations in state statute and I'm referring to Section 4 and this allows the Legislature to set allocations which I don't believe is correct. I don't think the Legislature should set allocations. And I'm not going to put anybody on the spot in this committee but I believe if we went around here and asked how many want the opportunity to set allocations for

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the Republican River Basin, I don't think too many would ask for that opportunity. I think that's a duty for the NRDs and the DNR. And the differences in what you show in allocations I cannot live with. I'm representing people in the 38th District and you start in there with allocations of 11 inches out west and as we move east it gets clear down to 6 inches. The percentage of reduction in the new allocation from the allocations at the present time start with a 19 percent reduction in the west end and go all the way down to a 45 percent reduction in the east end. I cannot accept that for the people that I represent. I prefer and Senator Christensen said, indicated that you'd listen to other options and certainly I prefer the "share-and-share alike" across the three NRDs. I've calculated that out as best I can and I believe that would be 9.88 inches. I also cannot support the 25 percent reduction in surface water with no compensation and I also have a concern about, is if it's even constitutional to do that? These concerns I will be addressing with this committee and asking for amendments. And I'm simply telling you and the group that's here that that's what I'm going to pursue so that I am up-front with you. Other than that, thank you for your testimony. [LB701]

STEVE SMITH: Thank you. May I make a comment in response to that? [LB701]

SENATOR LOUDEN: I'll give you a couple of minutes, yeah. [LB701]

STEVE SMITH: Thank you very much, Sir. Page 17 of your booklet shows you what the allocation is that Senator Carlson is referring to; he is correct. It does make a reduction as it goes. Page 18 shows you how that was determined. Actually why don't you put up the percent one, Dan, if you wouldn't mind? How was that number arrived at? Senator Carlson is correct that if you take a look at the existing allocations the reductions are greater in the eastern end of the district than they are in the western end of the district. However, let me address that. The Upper Republican NRD has been making cuts for ten years, fifteen years, has been setting allocations and doing everything they possibly could to do that. In other words they're starting at a different point in the game. They've already made many reductions that the others have not. If you take a look at page 20 it will show you a map that was handed out by the DNR in McCook in December. That maps shows the gross irrigation requirements to raise corn across the state. I simplified that on page 21 so it's much easier to read. What we did is we said, okay, if we go with 60 to 70 percent of what is required to raise corn, we end up with the map that you find on page 18 and is a result of allocations that we do. Is that fair? Perhaps not. There are many definitions of fairness. Some people would argue that the definition of fair is the same allocation for everyone in the state but whose point do you set as the baseline? Do we set that point at Holdrege, Nebraska? Do we set it at Imperial, Nebraska? Do we set it in Lincoln, Nebraska? If we are going to set the allocation the same for everyone across the state, at what point do we choose? I don't know. Do we base it on the depth of the aquifer? Do those who have more aquifer underneath them have more allocation? Do we base it on geography? There are multiple definitions of fair. This is the one in my opinion that is more fair than many others. I obviously know that many

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people disagree with me and I think the amendments and discussion that you have will be critical, and I welcome that discussion because I think it's important to have. I'll stop there. [LB701]

SENATOR LOUDEN: Thank you. Senator Carlson. [LB701]

SENATOR CARLSON: Okay. Senator Louden, I'll make one more statement that I meant to make as a positive...that in the bill you don't differentiate north and south on allocation which means that you didn't separate out the quick-response area from the upland area and I agree that that's very, very important in order to keep from financial disaster. But I do not agree on the east-west allocation and we'll stick to that. Thank you. [LB701]

SENATOR LOUDEN: Other questions for Steve? Seeing none, thank you, Steve, for testifying. [LB701]

STEVE SMITH: Thank you very much for your time. [LB701]

SENATOR LOUDEN: (Exhibits, 13, 14, 15) Okay. Right now I have letters of support from James and Laura Dake from Orleans, letters of support for LB701 from Jack and J.J. Boehler from Orleans, and a letter of support from Carl and Kathy Schneller, retired land owners in Chase County, to be read into the record at this time. And could I ask how many people are going to testify as proponents for this bill? Okay, 15? Okay, we'll have to cut that down. Can you get through it in about two and one-half minutes or under three? [LB701]

SCOT GERMAN: Senator if you can listen that fast I'll try. (Laughter) [LB701]

SENATOR LOUDEN: I'm a go-ahead guy. (Laughter) [LB701]

SCOT GERMAN: My name is Scott German, I live near Imperial, oh, that's G-e-r-m-a-n, S-c-o-t-t, Upper Republican District. I confess being, as the World Herald accuses, one of the few who is plundering the assets of the state's common known asset, water. And I'm here to offer a little bit of insight as to how such a monster as I developed. I believe it began with my great-great grandparents who settled in Dawson County in the 1860s. If the hail didn't beat them or the grasshoppers, it was drought that pushed them to the edges of survival. As one generation dreams of making their life better for the next generation my grandfather Earline German sank one of the first wells in the state. My maternal grandfather, Albert Smith, not a farmer, but a lawyer, provided the legal assistance in developing irrigation districts, drainage districts, which further enabled our greed. A step-grandfather, Jim Adams, who has a plaque on the University of Nebraska's Ag Wall of Fame, he was not a farmer, but he was state servant. He provided educational and scientific instruction to help us in developing our irrigation. All

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the farmer had to do at that point was go out a couple of hours before sunset, work all day, go back after dark and just like magic, you'd almost guarantee himself an existence. Even though that wasn't an existence that was very popular with any more than a minority of his offspring. Perhaps it was my first teacher in a country school north of Darr and I remember the conversation to this day where we were talking about property rights where she said, you know, if you have a property right, you have access to your water and your minerals all the way to the center of the earth. And unfortunately she hadn't read the Nebraska Constitution (laughter). Perhaps it was my dad who with my granddad's vision found that if he worked 80 hours a week pioneering pivot irrigation, he could make an acre of ground that could struggle to produce 40 pounds of beef a year, produce nearly 40 times that much. Now that's what I call plundering and wasting. In 30 years of farming we've produced more off that ground than was produced in all of recorded history prior to that. I'd challenge my accusers for the future unnamed use of water that they could use to top that, and I could blame myself. I had a good career flying F-16's and I came back to continue this madness of making a living leaving, all my assets outside at night. When I got back I was shocked to find that what I'd learned in District 19 was wrong. And that if the state could take one inch of my water, they could take all of it. I don't think the state bureaucracy wants everybody to know that all at once, but I believe the cowmen in the Sandhills and the irrigators in the water-rich parts of the state have got to realize that if they can take my water, they can take anybody's. And this entire preamble is to say that I'm here in support of Senator Christensen's LB701 because it is an attempt to allow a significant portion of the state to salvage some value from the lifestyle we've inherited. Over 90 percent of my farm's family acreage lies in the quick-response zone. The state's plan offered by the Governor and the DNR would reduce it to less than one-fifth of its production potential. It would affect 20 people directly and over 100 people indirectly. Legislative Bill 701 would leave the potential of our land already reduced by a third by previous cutbacks to within a viable level. Thank you, Senator Louden and the committee members for hearing me. [LB701]

SENATOR LOUDEN: Okay. Any questions for Scott? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Scott, thank you for your testimony. Obviously in listening to you and your family, you are survivors and you've learned how to cope. Can you cope with 9.88 inches? [LB701]

SCOT GERMAN: We've got 2,000 acres of farm ground; already we have set aside 150 of that to dry land farming and 200 of that to grass. That's how we're surviving right now. We got up from 13.5 to 9.8, that's just a direct cut in the amount of farm ground that I can farm, economic potential. Personally me? Because of the work my dad and my granddad did, we can survive financially. But if I had to go to a bank and pay for a property payment, I don't know how those guys are going to do it. And I'd say I am in a very unique position to be able to farm with that kind of cutback. [LB701]

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SENATOR LOUDEN: Are there other questions for Scott? Seeing none, thank you for testifying. Next testifier? [LB701]

RON FRIEHE: (Exhibit 16) Members of the committee and Chairman Louden, my name is Ron Friehe F-r-i-e-h-e. I'm from McCook, Nebraska. Up until eight years ago I was a full-time farmer, rancher, cattle feeder, and of course, irrigator...several generations. Due to health concerns I needed to make a career change eight years ago, so my wife and I rented our farms to our neighbors and I became a licensed financial advisor still serving the McCook area. As you might imagine not only irrigation is important to me because of my ag land that I still own, but my 1,800 and some customers, many of them are agriculture people. I believe the rules in the Republican Basin need to be very clear and contain several important guidelines to build upon. In my opinion we'd have to be sustainable. That's something that hasn't been talked about today. We have to get into compliance and we have to come up with a plan that is reasonable, equitable, and treats everyone fairly in the basin. When I talk about sustainable, I'm suggesting that we not allow our water table to decline any more than it currently has. I'm not saying raise that table, but I'm saying not let it decline any more than it has. I know that in a few areas stock wells have already dried up and in many areas, Mr. Smith alluded to that over in Dundy County, the wells just don't produce what they used to because of declining tables. NRDs, irrigators, and everyone have already done a lot. I know they've sacrificed a large amount as has my farmers. But we just haven't done enough. We have to do more. It's not going to be easy but we have to do more. I've seen the studies that say if we reduce pumping any more, the result will be an economic disaster. In my opinion, that's just simply not true. In the Middle Republican, two years ago, this will be our third year, we started a 13 inch per year allocation where you had 39 inches to use over three years. Without an exception every farmer that I have and I have eight farmers on my irrigated properties, came in and said, well Ron, you've got to share in this disaster with me. You've got to reduce the rents. This was two years ago, this will be the third. And I said, well, I'm not going to do that, let's see how we get along this first year. They said they just can't live on 13 inches. Now granted we've had some pretty timely rains the last two years but now after two years, do they want to take less? Of course not and I know it's going to be difficult. But they all got by on between 9 and 11 inches of water and that was just with two years of adjusting to the allocation. Nebraska's farmers are the best in the world; they are very good at adapting. I'm not suggesting they should if they didn't have the choice but again I just don't think we have any choice. In my opinion the real economic disaster is going to come if we continue to allow the water table to decline. We are not only going to lose our ability to irrigate but my ranching friends aren't going to have water for their cattle and then we haven't even talked about human consumption here today, our communities and our industries. I don't know what irrigated land is worth when you pump 30 or 40 percent less water, but I know what grass is worth when you have zero water. I have both alluvial and upland wells and even some surface water rights on both the Trenton and Enders reservoirs. In

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my opinion we cannot go down the endless road of laying blame on one another--his well drill bit mine or his well dried up my lake, it's too late for that. In my opinion the plan needs to say an acre is an irrigated acre no matter when the well was drilled, where it lies, when the land was developed, or whether it is irrigated by surface or ground water; we have to treat everybody the same. The rules on transfers and carryover allotments in my opinion need to be tightened. In the past some of those rules were a little bit too loose and they allowed additional irrigated acres to come in. I'm in favor of transfers but we have to tighten them up so that we cannot allow additional irrigated acres to come in. We are at our limit; we are fully allocated. I'd also like to see the program address industrial users and I'm not sure how to do that. Currently I'm of the understanding that an industrial user, let's say an ethanol plant and I support those very much, but they are able to come in and they're given a new additional allotment. I would like to see in this new plan, they have to retire someone else's allotment. Maybe they have to purchase an irrigated farmer's allotment to give them an allotment to run their industry. I'd also expect communities to do the same. I don't know what their level ought to be set at but in southwest Nebraska we still have several communities that don't even have water meters yet on their homes. Their bill is whatever...\$30 a month and you can let the garden hose run down the alley if you want to. I know cities don't use a lot but they...okay, getting close on time here. I do think that NRDs are the best to administer this but in my opinion local control has failed and the reason it has, we just can't expect people that serve on boards to make tough decisions that affect the livelihood of their neighbor, it's just an impossible task. So for that reason I think the Legislature needs to legislate the guidelines, the main rules of this and then let the NRDs, make them fit their particular NRD. Mr. Smith spoke about some different ideas on retiring rights or buying and selling, so. I'll quit there and ask for any questions. [LB701]

SENATOR LOUDEN: Questions for Ron? I have one, Ron, and this is even some of your last year...you talk about local control and your NRDs and you want the Legislature to more or less take over and set the rules and then let you guys go back and play the game. Did you ever stop and think that if the state takes that over, you might not get to play the game anymore; it might be somebody else's game? [LB701]

RON FRIEHE: Yeah, I did but I know that we're to a point that if we don't do some of these tough decisions ourselves and again I'm not critical of the NRDs. We've got some excellent NRDs out there. In my opinion their hands were tied a little bit by some actions in the past of other...some state agencies and state officials, but be that as it may, we're not going to lay blame. But the answer to your question--if we don't do it now, we've had...the NRDs and we farmers have had I think four years, and almost five, to make these tough adjustments since the settlement in '02 and we just haven't been able to do it politically, we just haven't been able to get it done. [LB701]

SENATOR LOUDEN: And the next thing that I would ask a question about is you mentioned you got what, nine inches of water, something like that? [LB701]

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RON FRIEHE: No, we have 13, in the middle... [LB701]

SENATOR LOUDEN: You got 13? Well, in the district I represent those guys out there around Scottsbluff and there, they are raising crops with nine and less. And they don't have about 12 to 14 inches of rainfall. In your areas your rainfall is a little bit higher and you got a bigger allotment. Why can't you raise crops if they can do it out there, why can't you do it down there? [LB701]

RON FRIEHE: I think we can. [LB701]

SENATOR LOUDEN: Then what's the problem? [LB701]

RON FRIEHE: I didn't say there was a problem. I said it was going to be a tough decision. [LB701]

SENATOR LOUDEN: Okay, you don't mind them cutting back down to nine then in your area, is that what... [LB701]

RON FRIEHE: If they treat everybody the same, I think producers in, and what I said Senator, they won't like it but they'll make it work. They'll become more efficient. [LB701]

SENATOR LOUDEN: Okay. Now you got flow meters in your district? [LB701]

RON FRIEHE: You bet, yeah. [LB701]

SENATOR LOUDEN: Yeah. Should these districts also, NRDs also include some soil profile meters or something like that? I mean the technology is there so that you know how much water...and this is how they're doing it out there around the Scottsbluff area... [LB701]

RON FRIEHE: Yeah, right. [LB701]

SENATOR LOUDEN: ...they're nearly all using electronic meters of some kind and that's when they water is just when they have to. [LB701]

RON FRIEHE: Yeah, that may very well be part of being efficient. A lot of them are already using them, I won't say all of them are but sure, every tool they can find to become more efficient they need to. [LB701]

SENATOR LOUDEN: But they can grow crops with less water than what they have been over the years. [LB701]

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RON FRIEHE: Sure. I think so. We're getting to be better at it. [LB701]

SENATOR LOUDEN: Okay, thank you. Any other questions? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Ron, I appreciate your testimony and your attitude and your statement about not lowering that aquifer any more than it already is and it sounds like you are a survivor and you can get by with 9.8 inches. [LB701]

RON FRIEHE: Yeah, and keep in mind I rent my ground to farmers but I'm directly related in two ways. If they can't survive I can't survive and I've got some very good ones. But also my financial business; I can't survive. And I know cattlemen and I think a lot of you folks are, and there are stock wells dry in our area. So yes, you're right, Senator. One quick comment I'd like to make too. We've talked about...we've danced around surface water a little bit in my opinion. And I appreciated the senator's comments about surface water ought to be treated equally. You've got to remember and again, I'm not here to say anything is to blame, but there are a lot of surface water users that have had zero for 12 to 15 years on the Enders Reservoir. We on the Trenton Reservoir, this will be our fifth year. Not a 10 percent reduction, not a 20 percent reduction, a 100 percent reduction; we've gotten zero. Now Steve made a good point about the guys with wells. It hasn't hurt them too bad because they could supplement, but not everyone has those wells. So there's already some folks that have given a lot. [LB701]

SENATOR LOUDEN: Other questions for Ron? Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. I can't believe that you said that the local NRDs can't make the decisions. Did you say that? [LB701]

RON FRIEHE: I did and I'll say it again. And the reason I think... [LB701]

SENATOR FISCHER: No, no, please, you don't need to say it again. (Laughter) I don't agree with you and I'll just be up-front, I don't agree with you. And to say that a locally elected board can't make decisions with the knowledge they have that affects the people in their area, I think that's really dangerous. And I agree with the Senator, well I don't know if I agree with Senator Louden, but I'll refer to what Senator Louden said earlier about this too. Why would you want the state to step in at this point and in this area, I don't ever want the state to step in anyplace. I think that's a...I think it's foolish to pass that over... [LB701]

RON FRIEHE: Well, but... [LB701]

SENATOR FISCHER: Just a minute...(laughter). I think it's foolish to say, oh, you know, gee, we don't want to put this burden on our local people. Senator Christensen

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represents the local people. I do. Senator Carlson does. I guess we have that burden too. And I think it's very dangerous with any issue but especially the water issue in this state, to say, we don't need our local NRDs and gosh, it's just too tough on those folks, we'll let the Legislature do it. Your comment. [LB701]

RON FRIEHE: I never said we didn't need the local NRDs. I said in my opinion the state, and don't get me wrong, nobody likes the state, much less than me. (Laughter) But in my opinion...(laughter) the... [LB701]

SENATOR FISCHER: Oh now wait a minute...(laughter) [LB701]

RON FRIEHE: ...main guidelines... [LB701]

SENATOR LOUDEN: You've got one minute, one minute. (Laughter) [LB701]

RON FRIEHE: ...well I've got to answer the question, Senator... [LB701]

SENATOR FISCHER: You've got one minute. (Laughter) [LB701]

RON FRIEHE: ...main guidelines... [LB701]

SENATOR FISCHER: The Chairman can do what he wants. [LB701]

RON FRIEHE: ...have to be set by the state and reason I said that, we've had years...the NRDs...it's tough to make that decision about your neighbor, in my opinion is why they haven't been able to do it. It's not because they didn't want to but the political pressure has been tough. But let them regulate it, let them make it fit their NRD specific for their needs but that framework, I just believe they can't do it. And if you don't buy that, we've had several years to do it and it's not because they haven't tried but they just haven't been able to agree. And it's my understanding that if we don't do it I'd rather have the Legislature do it. I'd feel more comfortable working with you folks than I do a federal judge, and we are very close to that Senator. And the only other comment I'm going to give you is, why don't you let us set our local state speed limits and our local state income tax rates and see how we get along? (Laughter). [LB701]

SENATOR LOUDEN: Okay, go ahead Senator Hudkins. [LB701]

SENATOR FISHER: Yeah, and I'm going, let's see how we get along, yeah. [LB701]

SENATOR HUDKINS: Yeah, one thing to remember when you are in a hole is to stop digging. (Laughter) And I would agree with Senator Fischer. I am a farmer but I am also a member of the Lincoln delegation. I love the rest of the Lincoln Senators to death; also the ones from Omaha. But pardon me, I don't want Omaha Senators who don't

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understand the water issues; I don't want them making...(laughter) I'm sorry Senators but (laughter) he doesn't. He is a school person. (Laughter) [LB701]

SENATOR KOPPLIN: Just for the record I know a heck of a lot about water. (Laughter) [LB701]

SENATOR HUDKINS: Okay, I'll quit digging too. But one other thing that I wanted to ask you. I think I heard you say that you had rented out your farm ground and because of the drought your tenants came to you and asked you that they thought that you should share in their pain and lower the rents and you did not do that. If the situation continues for another couple of years, are you going to do that? [LB701]

RON FRIEHE: Sure. I think we'll have to. The reason I didn't at that time and it wasn't because of the drought, it was because of the new allocation that came in for the Middle Republican. And the reason I didn't is because for every farmer that asked me to reduce rent I had five wanting to rent more. You know, what...saying hey, if he lets that go, I sure want a chance at it. I didn't want to do that; I've had the same people for the eight years since I quit, so. And I guess maybe I've got my hole pretty deep but I want to also let you know, I didn't mention it, I served as the chairman of the Republican Basin Governor's Advisory Council under two governors, under both Nelson and Johanns. And we were an advisory group made up of all NRDs, business people and surface water irrigation districts in the Republican Basin. We spent almost six years trying to come to some decisions on this and we couldn't. And so again it's just a tough issue for an individual to do out there. [LB701]

SENATOR LOUDEN: Questions again for Ron? [LB701]

SENATOR HUDKINS: My apologies to Senator Kopplin (laughter) but what I'm saying is... [LB701]

SENATOR KOPPLIN: I'll buy you lunch... [LB701]

SENATOR HUDKINS: ...most city people don't understand. Senator Kopplin obviously does. (Laughter) [LB701]

SENATOR LOUDEN: Thank you for your testimony. [LB701]

RON FRIEHE: You bet, thank you. [LB701]

DON ADAMS: Good afternoon Senator Louden and Senators of the Natural Resources Committee, my name is Don Adams, A-d-a-m-s. I'm executive director of Nebraskans First, a statewide ground water irrigators coalition. I want to thank Ron Friehe for loosening the crowd up and this committee and Senator Fischer, I would agree with

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you. I'm shocked on his views on the NRDs. The Republican River Compact was entered into by Nebraska, Kansas, and Colorado in 1943. At that time there was no ground water irrigation, no natural resources districts, no Harlan County dam. Never in the 50-plus years in the compact's existence leading up to this lawsuit, was it ever amended and updated to deal with the realities of the last half of the 20th Century when groundwater irrigation took off. From 1943 to the present, irrigators in the Republican River basin fully complied with all state water laws and NRD regulations. While so doing they invested heavily to upgrade their operations by drilling new wells, installing new pumps, and center pivot sprinkling systems. Such reasonable and prudent business decisions involved huge sums of money being expended all in reliance on the state's laws and official policy that groundwater was not included in the compact. Neither these irrigators nor the NRDs were parties to the 2002 settlement agreement. It was the State of Nebraska who cut the deal with Kansas. This matter is a state issue and a state responsibility. Our board met last month and after much debate voted to support the original LB701 primarily because of the inter-basin transfer component and the state funding provision. Today LB701 is much different and our board hasn't had a chance to take a formal position on it but I can say that we do not support allocations being in state law as the revised LB701 so specifies. Twenty-five green lights on the floor can change 9 inches to 4 inches in a heartbeat. But I can tell you where Nebraskans First does stand on the key issues. The Republican River is a 80, 90 percent runoff-fed river. It is irrefutable to conservation measures, terracing, farm ponds, etcetera, hold huge amounts of water on the land that otherwise would run into the river. Right now as you saw from those photos taken three days ago in northwest Kansas where the Republican River begins, which is the drainage of the Beaver, Sappa, and Prairie Dog Creeks, an area of about 6,000 square miles, terraces and farm ponds are holding back about 450,000 acre-feet of water from running into the Republican River and completely filling Harlan Reservoir. Kansas wants to know where their water is. Well it's in Kansas. Compared to conservation measures and riparian vegetation the impact ground water pumping has on Republican River flows is small. Nonetheless the DNR has chosen to solve the compact compliance problem on the back of ground water irrigators. This approach will never solve the problem but it surely will destroy the local economies, communities, and schools in the Republican River Basin. Franklin Public School superintendent Mike Lucas, who is here today knows the seriousness of the situation. He called DNR's proposal quote, a death sentence because the tax base that schools rely upon would be drastically reduced by the sharp reductions in groundwater pumping proposed by DNR. Land values could easily drop 50 percent. Back in 2005 then DNR director, Roger Patterson, assured the Republican River Basin NRDs that if they did adopt the allocations that are now in effect, that would be sufficient to achieve compact compliance going forward: So much for that promise. As the situation stands today downstream, Kansas lakes are full and Kansas irrigators are allowed adequate water to raise a crop. Upstream from Harlan, the hills of Colorado and Kansas are flush with water and terraces and dams that would otherwise be flowing in Nebraska. Nebraska Republican River basins have endured severe cutbacks in their allocations. They have

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paid the price; they have sacrificed. No one else in this process is sacrificing but our irrigators and that is not fair. We cannot allow this plan, the DNR plan, to go forward. It would devastate the local economies down there and I know that area is sparsely populated with little political clout and that is why the state must stand up and defend the Republican River Basin communities. Our government must not expect them to surrender their heritage and the economic health and welfare of their communities. Thank you very much. [LB701]

SENATOR LOUDEN: Okay. Questions for Don. Senator Hudkins. [LB701]

SENATOR HUDKINS: Mr. Adams, thank you very much for being here today. I appreciate your feelings but what happens if nothing gets done and a federal judge comes in and says, nobody irrigates anymore anywhere? [LB701]

DON ADAMS: Yeah, the fact of the matter is without addressing those conservation measures which are 80 percent of the problem, and factoring that into the model and for Nebraska and Kansas dealing with that fairly, we cannot solve the problem by going the route DNR wants us to go; we cannot solve it. And I cannot believe that Kansas officials, their waters are, or their governor attorney general, want to see those communities destroyed when in fact no matter what we do, the way we are going now, with ground water irrigation, we can't comply. I don't believe that would ever happen. I don't believe any judge that had a fair-minded disposition would allow that to happen. We cannot comply with the compact by solely targeting ground water irrigators and cutting them back to allocations that is effectively taking of their personal property rights. [LB701]

SENATOR HUDKINS: Thank you. [LB701]

SENATOR LOUDEN: Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. Thank you for being here today, Mr. Adams. But back to the bill. You're up supporting LB701 but are you supporting it? You said you don't support the state allocating the water. Do you support the bill? [LB701]

DON ADAMS: Well the only bill in bill form that I've seen has been the green copy LB701 and that's what our board looked at and debated. I've seen a summary of the new version...I have not... [LB701]

SENATOR FISCHER: Okay. And did your board take action to support the green copy? I'm just trying to clarify this for the record. [LB701]

DON ADAMS: Yes. The green copy, two weeks ago we took action to support that. [LB701]

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SENATOR FISCHER: But you have no position then on the amendment that Senator Christensen offered? [LB701]

DON ADAMS: No. I can't say with certainty that we do not support the allocations being specified into state law. [LB701]

SENATOR FISCHER: Okay. Thank you very much. [LB701]

SENATOR LOUDEN: Other questions for Don? I would have one, Don. When you mentioned something about what Kansas is doing and the sacrifices you've made in the Republican River, my understanding is and of course I haven't been in politics all my life, but my understanding is that Kansas hasn't drilled any new wells for 20 years or more over in the Kansas side of the border. They have a higher allocation but they haven't drilled any wells. Whereas down in Lower Republican there was several...there was hundreds of wells drilled here in the last, what, ten years or so. How do you respond to that? When there's been a whole bunch of new wells drilled in the area and then all of a sudden you're saying, well some of these folks are going to make a sacrifice. [LB701]

DON ADAMS: Well for example, in the Ground Water Management District IV which is northwest Kansas, those ground water irrigators get a minimum of 18 inch allocation. [LB701]

SENATOR LOUDEN: But they haven't had any new wells for how many years? [LB701]

DON ADAMS: I'm not sure. But is that fair? Milford is full. Milford Lake... [LB701]

SENATOR LOUDEN: Well if you guys hadn't have been able to drill any wells for the last 20 years we might not be sitting here today is what I'm saying. [LB701]

DON ADAMS: All our guys did was make sound business decisions in compliance with the state constitution... [LB701]

SENATOR LOUDEN: True... [LB701]

DON ADAMS: ...state laws, and all rules and regulations of the NRDs, they've done nothing wrong, nothing wrong. [LB701]

SENATOR LOUDEN: Yeah, I'll grant that but I'm talking about common sense, see...and that's where I wondered. I have a problem when people come in here and testify and talk about the sacrifices they are going to have to make when they did some of this drilling not that many years back and everyone in that area should have known

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that there was a problem on the very near horizon and your NRDs should have known that. That's what I'm stating; that's where I have the problem at. And this is what we are trying to solve now. We are trying to give you guys a soft landing. [LB701]

DON ADAMS: It was always the policy of the state and you can read the compact committee minutes that ground water was not included in the compact. That was the policy of the state up until the lawsuit. So the NRDs and the irrigators were acting rationally and as reasonable businessmen. [LB701]

SENATOR LOUDEN: Okay, we'll let you go at that. Other questions? [LB701]

DON ADAMS: Okay. [LB701]

SENATOR LOUDEN: Other questions? Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. Mr. Adams, in regards to Senator Louden's comments of, you would agree that the people who put in the wells at the time were following law? They were doing nothing wrong? [LB701]

DON ADAMS: Precisely. They were developing their land as wise businessmen should, yeah. [LB701]

SENATOR FISCHER: In fact they were being encouraged by the University of Nebraska, the county extension agents who even in my area of the Sandhills, encouraging us to put in irrigation. [LB701]

DON ADAMS: I don't know if the university was encouraging, I would doubt that very much. [LB701]

SENATOR FISCHER: Okay, but they did nothing wrong. Were they encouraged by anybody? [LB701]

DON ADAMS: Of course not. [LB701]

SENATOR FISCHER: To put in pivots. [LB701]

DON ADAMS: I mean, to be a good businessman in that business to maximize your profit and production, you irrigate. And you irrigate, you know, wisely and prudently and with conservation in mind and that's what they did. Production is good in this state. We do that better than anybody else in the world; we shouldn't discourage it. [LB701]

SENATOR FISCHER: I would like to make note that yes, the university in my area and county extension agents were traveling the Sandhills and encouraging us to put in

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center pivot systems in the Sandhills because that was to be the future of Nebraska. And I believe there was an article in either the Omaha World Herald or the Lincoln Journal Star that said that. Woody Varner was a definite proponent in the '70s of that. So I agree with you that you did nothing wrong. You were following the law and making sound business decisions. Thank you, Sir. [LB701]

DON ADAMS: Thank you. [LB701]

SENATOR LOUDEN: Other questions for Don? Seeing none, thank you. [LB701]

DON ADAMS: Thank you. [LB701]

SENATOR LOUDEN: Next proponent? [LB701]

GREGG SMITH: Senators, thank you for taking the time to listen to me today. My name is Gregg Smith, G-r-e-g-g S-m-i-t-h. I am a fourth generation resident of Chase County, Nebraska. President Grover Cleveland encouraged my family to aid in the development of Nebraska. The State of Nebraska encouraged my family to develop irrigation for the benefit of the state. The population of Nebraska, myself included, desires sustainability. It is impossible however for the aquifers and rivers in the Republican River Basin to achieve sustainability without access to outside sources of water or by severely damaging the region's economic base. Sustainability is a simple function of planning and investment. Cities in the southwest like Phoenix, Las Vegas, and Denver, city planners predict the future needs of their cities and then actively fund and build projects to provide adequate and essential services such as water and power. Without critical engineers and politicians, these cities would never be sustainable. These cities would never tell their residents that they have overdeveloped and would have to depopulate. Shortages of water, power or other services would indicate shortsightedness and incompetence on the part of these professional engineers. Nebraska's water system is somewhat broken. Not due to it's overuse, not because it's engineers are incompetent but due to a lack of planning, investment, and foresight. I believe that Senator Christensen is attempting to change that and should be listened to. Even to this day the Nebraska DNR, local NRDs, and federal government continue to divert water from streams through the installation and upgrading of miles and miles of terraces and acres of retention ponds. Irrigation has taken its toll on streams and aquifers. Our current imbalances indicate years of neglected planning and efforts to eliminate or reduce the side effects of these beneficial practices. If terraces are built to erosion and runoff then they should be countered with an artificial infusion of imported water to make up for the difference. If irrigation is reducing levels of an aquifer, then a long-term strategic plan to refill that same aquifer should have been developed. To stop using an aquifer or to remove terracing is a step backward that should never be taken. What we need are the forward steps of increasing supplies and recreating lost stream flows. Without future investment and engineering Nebraska's water system simply cannot be brought into

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sustainability. Reductions in irrigation will only shrink the very economic strength necessary to pay for future growth. Taxing one individual in order to retire another is an impediment to the state's economy while taxing to invest in infrastructure is an economic stimulant. Our university minds and state engineers are given the task to education people on how to deal with unavoidable future reductions in water usage. These same minds should be tasked to develop and design methods of increasing water supplies. At a time when the ethanol industry is revitalizing rural Nebraska, we have an opportunity to become the nation's leader in water management just as we are the backbone of the nation's fiber optic, rail, electrical, and interstate networks. Senator Christensen realizes Nebraska is a water-rich state. Five point eight billion gallons of excess water are leaving the state every single day. Another 12 billion gallons pass by in the Missouri River every day, much of which should be for use in Nebraska. Nebraska is home to 60 percent of the world's largest aquifer, most of which has never been touched. [LB701]

SENATOR LOUDEN: One minute. [LB701]

GREGG SMITH: I support LB701 because it puts proportional responsibility for the Republican River Basin imbalances where they truly lie, which should include state-sponsored conservation practices and uncontrolled vegetative growth rather than exclusively with irrigation. LB701 gives at least some incentive to individuals and groups to creatively search out and acquire their own sources of water. I would prefer that we as a state collectively, as compared to individually, build new infrastructure. Nebraska has no excuse for not employing one state or many regional qualified water engineers who could lead this state out of its water imbalances. Nebraska can only achieve sustainability through professional planning, steady positive economic growth, and stimulated development. It is called progress. And if Nebraska continues to stop development and takes major steps backwards then the Republican River Basin will suffer from recession, lose its best people to cities and other states, and will seriously hinder any future ability to become sustainable. It is called regression and should be avoided at all costs. In summary, I want you as leaders of this great state from the local level to the Governor's office, to work jointly together to move this state forward to the next decade. Whether you like this particular bill or not, I believe that we should all work with a forward-thinking Senator Christensen to develop the best legislation possible. The Republican River Basin is heading for a crisis and its citizens need action on your behalf immediately. Thank you for your time. [LB701]

SENATOR LOUDEN: Okay. Questions for Gregg? Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. Gregg, do you support the green copy of the bill or the amended copy? Have you seen the amended copy? [LB701]

GREGG SMITH: I prefer the first copy. [LB701]

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SENATOR FISCHER: Do you support the state allocations in the amended copy?
[LB701]

GREGG SMITH: I would prefer that it is handled locally. I think what this bill does is suggest that irrigators might be willing to sacrifice a little bit more in exchange for participation on the state and the state perhaps fessing up to its share of responsibility for sponsoring such programs such as terracing. [LB701]

SENATOR FISCHER: But yet you want the state to be involved in, you used the term, sustainability a lot, and you also said that the state needs to build more infrastructure. What did you mean by the state needs to build more infrastructure? [LB701]

GREGG SMITH: I think sustainability is a term that we need to head towards but the gentleman before me suggested that he would like to see sustainability, meaning the aquifer should never decline. I'm saying that our aquifer will continue to decline until we put an infusion of water into the system. The only way to stop an aquifer from declining is to fill it back up. Lake McConaughy, excuse me, I'm...go ahead... [LB701]

SENATOR FISCHER: So...go ahead... [LB701]

GREGG SMITH: ...Lake McConaughy has demonstrated for years that water running through canals and seeping into the aquifer can actually rebuild and create a mound effect. [LB701]

SENATOR FISCHER: But what did you mean when you said you wanted the state to build more infrastructure? [LB701]

GREGG SMITH: I believe the state lacks for a state planner. I believe that... [LB701]

SENATOR FISCHER: But infrastructure...do you want us to build more dams, do you want us to build more canals, do you want...what do you want for infrastructure?
[LB701]

GREGG SMITH: Yes, yes, yes, definitely. I believe that the Spring Creek transfer would be one quick and efficient way of adding more water into the southern part of the state. I believe that this state is rich in the northern parts and the eastern parts of the state. I think we have, not a water shortage problem in the state of Nebraska but a water distribution problem in the state of Nebraska. I know that people weren't too happy about the Ashland proposal... [LB701]

SENATOR LOUDEN: Okay, does he have your question answered? [LB701]

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SENATOR FISCHER: You've got it, thank you. [LB701]

GREGG SMITH: Very well. [LB701]

SENATOR LOUDEN: Anyone else have questions for Gregg? I have two questions. First of all, are you related to Steve Smith? [LB701]

GREGG SMITH: He's my brother. [LB701]

SENATOR LOUDEN: Okay. I could have guessed that. The second thing is when you talk about this water transfer do you think that's constitutional or, I mean, if we transfer it out of that basin they're already wondering where their water is. Okay, and I agree, we got surplus water but most of it's coming out of the Sandhills down the Loup Rivers, it's a long ways from Imperial and the Republican River. Do you think that that would be constitutional? A water transfer like you...at Spring Creek as they talked about? [LB701]

GREGG SMITH: Absolutely. I believe it's currently permitted. I believe there is some water moving right now out of the basin, out of the tri-basin. The mound effect is already importing water into this basin. The fact is we're doomed in the southwest. If the state wants us to go to sustainability, we are doomed if there are lines that we cannot cross. If we cannot source water from anyplace... [LB701]

SENATOR LOUDEN: Okay, now and the next question I would have, the last one, and you talked about terraces and since it's all a family matter. Do those terraces help recharge the groundwater? I mean you're holding the water back, that water has got to go someplace. It's got to go down or else evaporate. But how much of that is something that recharges the groundwater with your terracing and some of your eco fallow farming? That holds the water there so it's got to percolate down, do you... [LB701]

GREGG SMITH: I'm no expert in that field but I would imagine that yes, it does hold the water from the stream and would recharge groundwater. [LB701]

SENATOR LOUDEN: Now is that where you get...see, I come from the Sandhills where if we have water up in the hills and we have pockets full of water in the hills, our springs start showing up down in the valleys and that's what I'm wondering if that happens in your part of the country or if you have any idea on that. [LB701]

GREGG SMITH: I do not. [LB701]

SENATOR LOUDEN: Okay, thank you then. Other questions for Gregg? Thank you for testifying, Gregg. [LB701]

GREGG SMITH: Thank you. [LB701]

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MIKE LUCAS: Hi, I'm Mike Lucas representing Franklin Public Schools, last name, L-u-c-a-s. And I want to thank you for this opportunity to visit with you today. I want to remind all the people in the overflow room and it is crowded and overflowing itself, that the television adds ten pounds to your appearance, so keep that in mind (laughter) to all my friends there. This is my fourth year in Franklin and I wanted to first off give a big thank you to Senator Carlson and Senator Christensen for their leadership in our area. We are thrilled with the job they are doing and how they are representing us. From the school side of things, I want to give you a simple example of how this irrigated land to dry land situation affects us. And first off I want to say I am in favor of the original version of LB701, I guess what's being called the green copy. I'm pretty lukewarm about the new LB701 however, I do like Senator Carlson's ideas with the higher allotments of water than what this newer version has. But in Franklin, Nebraska our--we just found out that our state aid is projected to go up \$32,000 next year. That's great news; we're very appreciative and thankful for that. However, with the turmoil that our farmers are in and the irrigated-dry land controversy, our valuation which is already extremely low, is projected to go down \$5.6 million. So what that means is when you take into account increase in state aid, decrease in valuation, the money we're going to be able to generate is going to be about \$34,000 less than what it was this year. So state aid is not always the end all for smaller schools like Franklin. The Lower Republican area has school districts from Superior all the way out to Cambridge and the current plan that the DRN and Governor Heineman have had in place that's received a lot of publicity, would cut \$3 to \$4 billion dollars worth of valuation in that area from what our understanding is. We had the great opportunity on February 5, myself and one of my teachers and several other representatives from the Lower Republican area, we were able to come to Lincoln and meet with Dr. Bleed and Governor Heineman and we were very appreciative of that opportunity. And at the February 5 meeting we presented some short-range and long-range goals to Governor Heineman and Dr. Bleed. We addressed the fact that annually Nebraska loses approximately seven million acre-feet of water that just runs out of our borders. We talked about the fact that maybe some water diversion plans could be implemented to help offset that, even a small fraction of that. We presented a map about some things that Colorado was doing in the mountain areas. Shortly after that meeting we found out about the Texas and Canada water transfer deal and so there are things that are going on water-diversion wise that maybe Nebraska could address. We also brought up as a long-range goal the possibility of opening back communications with Kansas. We feel like our farmers have done a tremendous job of working to get into compliance. We've heard a lot of testimony today about all the reasons beyond our control why they are not in compliance. Over the last two years even though our farmers were able to use 11 inches of year annually in our area, they used 7.4 and 7.6 inches respectively and I think that's a great credit to the efficiency and the effectiveness of the Nebraska farmer and especially the Lower Republican farmer. In closing I want to say I love rural Nebraska, I am a native Floridian and my high school had two and a half times more students than Franklin has residents. And I, as a father

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of four and as a superintendent of a school that has 340 students, I'm just thrilled to be in rural Nebraska. I'm one of the biggest fans of rural Nebraska there could be. We have one of our students here today back in the back. His name is Evan Schluntz (phonetic). He's a junior and a big part of our FFA program and Evan Schluntz is real representative of our entire school system. And I would take our 340 students or our 34 graduating seniors this May and put them up against anybody else who is in the state and the country. So... [LB701]

SENATOR LOUDEN: Questions for Mike? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Mike, I appreciate your testimony and you're so strong on rural Nebraska that I'd like to encourage you to--let's recruit some more people, families from Florida, and move out here (laughter) and accept our quality of life. We have something to market. [LB701]

MIKE LUCAS: Another tornado or hurricane would do that I'd bet (laughter). [LB701]

SENATOR CARLSON: I appreciate you bringing up the fact that the farmers in you area have done such a good job of water conservation. We don't want them to be penalized for that because of a lower allocation. Thank you. [LB701]

MIKE LUCAS: Thank you. [LB701]

SENATOR LOUDEN: Other questions for Mike? Seeing none, the only thing now is, do you want us to put it straight on the record that this television monitor--do you actually weigh 152 pounds? (Laughter) [LB701]

MIKE LUCAS: Well a little bit more than that after lunch. (Laughter) [LB701]

SENATOR LOUDEN: Okay. Thank you. Thanks for your testimony. [LB701]

MIKE LUCAS: Thank you. [LB701]

DAVID NABITY: My name is David Nabity and I am from Omaha, Nebraska and I live at 152 and Pacific and you might wonder, what in the world is this guy doing here piping up on this issue? And over the last three years I ran for statewide office and got to know a lot of the people in the different river basins and got a pretty good understanding of the economics of what's going on in this state. And you know, it's interesting Senator Carlson, you say why don't we get more of these Floridians to move up here to Nebraska to experience the good life? The one big reason they won't is because the tax burden in Florida between real estate, income, and motor vehicle taxes, is half what it is here. And the reason that I'm speaking up today is because I'm concerned about the direction that this state is going economically. And there is no question that if we want a

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vibrant economy in this state and we want lower taxation, we've got to make sure that every section of land in this state is productive--making money, creating jobs, paying taxes, and supporting everything that we have in the way of infrastructure. And unfortunately I think there's been a lot of demonization of the business people that own land that have been trying to get as much production out of their property as they can to be profitable. And with that profitability comes revenue and with that revenue, assuming the Legislature can keep spending under control, we have the hopes of lower taxes in the future. And as I look at LB701 I'm really in support of it because it looks to me like it's one of the first strategic plans that have been put out here where those that are in business along the river basins are given a little bit. But it is pushing responsibility onto the backs of the DNR where it should have been in the first place. And when it came to dealing with Kansas it was the DNR that went down and negotiated agreements. And you know when they left off, the impact of federal conservation and the way that it restricts water from getting back to the rivers, and conservation was mandatory--to me it's just beyond me that the federal government wasn't brought to the table to possibly step up and pay any fines that may be due to Kansas. So I believe the DNR has let down our business people that own ag land and have tried to run profitable businesses. And so what I see LB701 doing is it's putting a lot of duties on the table that should have been on the table a long time ago to bring more science to everyone so we can really take a proper accounting of why water isn't make it back to the streams and what do we need to do to give and take to comply with Kansas. In my opinion I wish that we could completely revisit the agreement that we have with Kansas because I feel like a 1941 agreement that didn't really take into account the drought that we've been going through and has not accounted for all the federal conservation policies we've got an inability to perform anyway. And I'd like to see that readdressed if I could. A couple of key points. I believe the state must solve these problems for all the reasons that we've heard already. And we need to do things like cutting vegetation, but by golly we've got to develop a 21st Century water management and distribution system. And I'd like to see what we're going through right now be an opportunity for us to set up a water management system that would be the envy of the world. We've got the ability to do it. We've got the aquifer. We have a drought right now but you can see we have also got Kansas holding a whole lot of that water before it even gets into Nebraska. But we do have the opportunity to develop a 21st Century water management system that could make us the envy of the world. You know when you have...I think it's...I don't even know what the numbers are but we have a huge amount of water that comes into this state and we have a huge amount that leaves it. We need to have a system that stores more water and we need to have a system that transfers water from areas of surplus to areas of need so that everybody can stay in business, so that every county is profitable, so that we are getting as much revenue off the land as we possibly can, and if the Legislature does its job and keeps spending under control, we can finally be able to see tax relief. If we screw this up we will screw up the entire economics of the state and the people like me that live in Omaha, Nebraska are going to suffer just as bad as everybody else because all we are going to see is our tax load going up and up and up.

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So I encourage you to think outside the box, look for new innovations, put the DNR in a position where they've got to think innovatively and let's develop a 21st Century system that's the envy of the world. [LB701]

SENATOR LOUDEN: Any questions for Mr. Nability? Seeing none, thank you. [LB701]

DAVID NABILITY: Thank you. [LB701]

ED SCHROCK: Good afternoon, for the record my name is Ed Schrock, that's spelled E-d S-c-h-r-o-c-k. I'm here to represent South Platte Chamber of Commerce. First of all the South Platte Chamber of Commerce is commending Senator Christensen for introducing LB701 and although individuals in our organization may disagree or not agree with some of the portions of it, we think Senator Christensen has some ideas here that should be worked with. I'm going to testify on some things that aren't necessarily what the South Platte would support. But I do want to comment on the water transfer. We did, the Natural Resources Committee did hold a hearing in Holdrege last May and I found out what I suspected. If you are from the Republican River Basin you are in favor of transfers. If you are from the Platte River Basin you are opposed to transfers. Now I drove across the Elm Creek bridge this morning to get here this morning. There's quite a little water in the Platte River. By my standards as a farmer I see that as water going to waste. If you are in environmentalist you see that as water for the birds and to scour the river and to make it look better for our migratory birds. If you are a municipality down stream you see that as water for my city. So we have a conflict there. But I think in times of excess on the Platte and there could be quite a little bit of water come down the South Platte this year from this...keep in mind McConaughy intercepts the North Platte, McConaughy is empty, there won't be any water coming from the North Platte. There could be quite a little bit of water coming down. Is it possible to transfer? Yes. But you have to have agreements on both sides. I don't know if it can be done or not but it needs to be looked at. But we also have to remember the Platte River is an overappropriated basin. One of the things that does bother me is that Central Nebraska Public Power and Irrigation District manages Elwood Reservoir. Elwood Reservoir cannot intercept water, natural flow water and put it in the reservoir. The only way they can put water in Elwood Reservoir is from storage water out of Lake McConaughy; that's an agreement when the reservoir was built. If that reservoir is allowed to dry up, it's going to kill a very nice fishery. There's good Walleye fishing there and it may be the best Muskie fishing in the state. Plus the fact a lot of the water that's put in the Elwood Reservoir seeps out and ends up in the Republican River Basin. And if you do let that reservoir dry up then you are going to impact the amount of water that gets transferred underground from the Platte River Basin to the Republican River Basin. So I would like this committee to start asking some questions from the Game and Parks, Department of Natural Resources, and it just makes a little sense that some of that water should end up in Elwood Reservoir or if not, in Spring Creek. I have some neighbors that would probably be upset with me for saying that well, some water from

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the Platte River basin could be transferred. I don't think it's a permanent solution and I don't think that it's something that can be counted on from year to year. But when the Republican River Basin has compliance problems it just makes sense that the whole state steps up and helps a little bit and that's one way it can be done. I think at this point in time it's no use to playing the blame game, the NRDs, this committee, the Governor's office, the Department of...the Attorney General's office needs to all work together on this and come up with solutions. Not everybody's going to like it and you're going to get blamed because it isn't all right. Somebody's not going to like what you do but you've got to go ahead and do it. I've always said the natural resources in this state don't get any respect. We are the Rodney Dangerfield's of the Legislature of this state. There's plenty of money for education, well there's not plenty, but it seems like there's a lot of money that goes for education, a lot of money goes for health and human services, but stop and think about it, very little money is spent on our natural resources especially at the state level. Sure the state's not going to put a lot of money into this but they need to put some. The Governor's plan is a start. We got \$2.5 million from the Appropriations Committee last year. If we can get another \$2 million for Senator Carlson's plan we are headed down the road. I've been in your seat, I've spoken too long and I want to get home. By the way, I miss the people, I don't miss dealing with the issues and the problems. (Laughter) So but it's good to see you. [LB701]

SENATOR LOUDEN: Thank you, questions for Senator Schrock. Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Senator Schrock, it's a privilege to follow you. [LB701]

ED SCHROCK: It's a privilege to have you follow me, Tom. (Laughter) Tom and I grew up about six miles apart and used to go to bible school together and he's my brother's classmate. I'm glad to have him follow me. [LB701]

SENATOR LOUDEN: Senator Kopplin. [LB701]

SENATOR CARLSON: I'm not done. [LB701]

SENATOR LOUDEN: Oh, you're not done? [LB701]

SENATOR CARLSON: You bring up the Elwood Reservoir and I agree with you. That would be a wonderful place to be putting some water with an overflow from the South Platte and we just need to figure out how to make it happen because it would be great for central, it would be great for the Republican Basin. I appreciate that comment. [LB701]

ED SCHROCK: Well, I've encouraged the committee and the Department of Natural

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Resources to look into that. And maybe it's time to make some more sacrifices and help out a little bit and that's one way you can have an immediate impact and help. [LB701]

SENATOR LOUDEN: Senator Kopplin. [LB701]

SENATOR KOPPLIN: Is it true that your wife caught a bigger Tarpon than you did? (Laughter) [LB701]

ED SCHROCK: Senator Kopplin I'm not going to go there (laughter) but if you come out and visit me this summer, I know a guy that will take us Muskie fishing, if there's still any left in there. [LB701]

SENATOR KOPPLIN: Okay. Very good, thank you. [LB701]

SENATOR LOUDEN: Other questions for Senator Schrock? Seeing none, thank you for testifying, Senator. [LB701]

LIZ MOLLENDOR: Your heart rate changes as you get closer. My name is Liz Mollendor, L-i-z M-o-l-l-e-n-d-o-r and my family and I live close to Imperial, Nebraska; we live closer to the state line. And I would just like to touch on the social and the local impact the bill will have. I'll be okay, I just get nervous, I'm sorry about that. Okay, I grew up in southern California about four hours from Las Vegas. My family loves Vegas and I can't stand it, I hate Vegas, I hate gambling, it's boring to me. But in the end, my perfect match was a big huge gambler; he's a farmer. And many of you are farmers and you understand, you gamble everything; all of your inputs every year. And like somebody else commented all your assets are stored outside on top of that. All of your inputs go into your entire crop and you don't see anything until the end, and that's if you market it well too. One thing, one bad decision along the way can take your feet out from underneath you. Many things are out of our control, many. The weather is one of them but this compact is another. The Republican River Compact has to be; we have to come into compliance with that, there's no question. But it will not...if it's done the wrong way it will not only take out the farmers, it will take out communities. Senator Schrock commented earlier that farmers and irrigators are assets and I'd like to see that protected. It is true and it is a big percentage of this state's income that we are dealing with. I would just ask that you would seriously consider the lives of those of us in southwest Nebraska as you make decisions that will affect our farms, our families, and our future generations. We have three children. Our fourth will be due in the fall and we would like to share our family's legacy with our children too. We hope that that will happen. We have purchased ground of our own which is going to be very difficult to do if our allocations are cut drastically where if the water is cut off especially we won't be able to pay our bill, so--not only will the family farms but our community also, and we just ask that you please not let that happen. My family and I support the LB701 and we also applaud Senator Christensen for taking the efforts and initiative to work toward

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some sort of workable solution. It's not perfect but it is a step towards it and I understand it can sort of be altered and it does need to be altered; it's not perfect. But I do appreciate your taking the time to hear me, Chairman Louden, and also to the rest of the Natural Resources Committee. Thank you. [LB701]

SENATOR LOUDEN: Any questions for Liz? Well thank you for coming this far and testifying for us. [LB701]

LIZ MOLLENDOR: Thank you, and congratulations, I hear you have a new granddaughter. [LB701]

SENATOR LOUDEN: Well, thank you, I appreciate that. [LB701]

KURT ELDER: I will bring my green sheet up after I defend if that's okay? [LB701]

SENATOR LOUDEN: Okay, if the clerk says it's all right, you're home free. [LB701]

KURT ELDER: Oh, okay. Thank you. [LB701]

KURT ELDER: To begin, my name is Kurt Elder, that's K-u-r-t E-l-d-e-r and I hope to bring somewhat of a student perspective. I hope to be graduating soon, in May, and part of my dream is to return to southwest Nebraska so this is my statement and this is just in support of that, so. So I will begin. First, I want to thank the Chair directly and the committee as a whole for allowing me to speak today in support of LB701. As I begin with my statement I feel the need to state that I was both born and raised and then initially educated in the Republican River Basin before my educational needs required that I leave (inaudible). Moving forward, as I...I want to put in a little context based into how I, you know, got to this point. I have always had the dream to return to rural Nebraska and as I look back on my personal history I recount (inaudible) and others have just like myself. When I was in high school, you know, there were those kids who just dreamed of leaving and I'm like...I'm going to leave this town, I'm never coming back. People from rural areas kind of tested this, they don't how to stop it and sometimes they don't know how to understand it. But I was always the one that said, I want to stay. I love where I'm from. I love the people that made me who I am. As my education took me to various parts of the state from institution to institution my educated peers questioned my commitment to return to rural Nebraska. Discussions of social and physical distress, local ties, community relations, and then community spirit, easily defended my position...simply I wanted to return. Third, as I come to the end of my formal education with the doors of opportunity wide open, I would still like to home. And why? I've been asked that a lot over the past few days. I want to give back to the people, back to the area and back to the progressive culture that helped me become who I am today and I am thankful for their support. So in summary, I have the desire to return. I want to return home to rural Nebraska and more importantly I want to return to

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a stable Republican River Basin. The problem we all face is in defining a stable area and it's the goal of the people here and of myself to define stable. Today's showing of testimony should go a long way to help in defining that standard. However for me, let's face the realities of student debt. And amid that if the entrepreneurial spirit and community structure displayed throughout the basin are damaged through poor public policy, then the dream that I have held onto will not falter but will damage and degrade the motivation for a number of others. I want, and can, make a difference but I need their help. Please embrace the added potential that the Republican River Basin has yet to offer the Nebraskan's spirit and then their willingness and dedication to attempt to finance theirs. I believe that this bill will both support the state's needs and desires to attempt to stay in compliance and will help the reasons desired to move forward with a confidence so that they can move forward. Please support and move LB701 forward with your support and I thank you for your time and your patient ears. I'll gladly answer any and all questions should you have them whether they range from prior education to my motivations to return. I will try my best. [LB701]

SENATOR LOUDEN: Questions for Kurt? Senator Dubas. [LB701]

SENATOR DUBAS: Senator Louden. Thank you, Kurt. You remind me of my son. [LB701]

KURT ELDER: I hope it's a good thing. [LB701]

SENATOR DUBAS: It's a good thing, it's a good thing. My son wanted to do nothing but farm and it's not an easy thing to get into and because of him is why I'm here and I think that's why a lot of the rest of us are here is because we want a future for you. And I don't know if this is the answer or parts of it are the answer, but I appreciate you coming here and your willingness to share your feelings. And so any suggestions you have for us, I'm open. [LB701]

KURT ELDER: Just a quick question. Knowing your last name is Dubas, I know a couple of Clints, Clint Dubas's, that they attended... [LB701]

SENATOR DUBAS: That's my son. [LB701]

KURT ELDER: Oh, okay. I know Clint then... [LB701]

SENATOR DUBAS: You are not supposed to ask the questions, but...we'll talk out in the hall (laughter). [LB701]

SENATOR LOUDEN: We ask the questions...(laughter) [LB701]

SENATOR DUBAS: I do just want to thank you. I know it takes...it's hard to sit in that

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chair and so thank you. [LB701]

KURT ELDER: Okay, thank you so much for your time, I appreciate it. [LB701]

SENATOR LOUDEN: Thank you for testifying. How many more testifiers do we have out there? Okay, pretty quick you guys are going to have to go a little bit faster because we've went on this for quite a while and there could be some opponent testimony so we are going to cut it down to about two minutes here, so be quick. [LB701]

STEVEN GRAMS: (Exhibit 17) Okay. Director, my name is Steven Grams, G-r-a-m-s. I do have a letter of submission so I'll be brief. I just have a few comments. Certainly, certain things have gone through my mind as testimony has gone on today, actually didn't realize for my first legislative hearing that it could be so fun. A lot of laughs on some cases. So as I said my name is Steve Grams. I've spent a lot of time with Mark so when I submit this letter it's certainly out of the love in my heart for him and his efforts and what he's trying to do for our district. I've spent a lot of time on the road with him and I speak with him on the phone frequently. I do attend NRD meetings in the Upper Republican and try to stay somewhat abreast of issues in the middle and the lower as everybody's affected in the Republican River Basin. I guess if there is one thing that I just really want to point out is that in all my time with Mark traveling and working on ideas that would help deal with our water issues, it's always been about trying to be efficient and trying to be effective. And I think that's probably just part of being a farmer which Mark is. And I think you see that in his original LB701. There was some efficiencies and they, based on what we've seen so far, mine proved to be more effective than what's taken place so far. But another thing that's always mattered to Mark I think, a plan that was fair and that brings me to--we've heard a lot of testimony today and some discouragement about maybe allocations changing as you move further east and Senator Carlson, for the record had mentioned that he couldn't support those allocations. For the record, the people in the Upper Republican don't agree with their average rainfall either but I don't know how we can check the constitutionality of that, so. But ultimately I think that when you look at his amended bill, or changed bill, it is out of the concern for fairness for farmers and the communities in the 44th District. Certainly there is people that like the original LB701 and certainly there is a lot ways that original bill could have been used in ways that didn't really represent his true purpose for that bill. [LB701]

SENATOR LOUDEN: Can you finish up here? [LB701]

STEVEN GRAMS: We're done. [LB701]

SENATOR LOUDEN: Good. Any questions for Steven? Thank you, Steve. I might add that the overflow crowd, if there's proponents for this bill, they should probably come to this hearing room at the present time, if there are any proponents for LB701 in that

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overflow room. Go ahead, Sir. [LB701]

WESTON FURRER: My name is Weston, W-e-s-t-o-n Furrer, F-u-r-r-e-r. I'm a retired, I'm going to say, farm manager. I spent 40 years with Farmers' National Company from peon to president and I've always been very conservation-minded in soil and water conservation. In fact after I retired my company established an award called the Wes Furrer Conservation Award which they give to a farm manager who does excellent conservation work. My wife and I own some land in the Lower Republican in Nuckolls and Webster Counties. We have tried to be very conservation-minded by--one of the farms had as some of you know what bench leveling is, it's bent where it used to irrigate level land--if you had a hill you could make benches and level and irrigate that. By buying a center pivot, taking the benches out, we used a lot less water. We have on all of our pivots, gone to the drops, we got some of that spit water up in the air. We've gone to the drops and are as conservation-minded as we can be. I guess I might add is that I have served on the Lower Platte south NRD board twice and on the Salt Valley Watershed before they had NRDs. I like Senator Carlson's idea of having eight or nine inches of water in Nuckolls and Webster Counties. That's what we have used the last couple of years and raised a good crop. And we would appreciate having that much. We could get by with eight inches on a year like this when we've got some good rainfall. I might mention that on this one farm, the Bostwick Canal goes through the farm so we've got the benches on one side and gravity on the other. We have an allocation of 22 acres; I've had no water from the Bostwick--we pay the O and M, operation and maintenance charges but have had no water for the past five years. I would like to mention that Senator Hudkins and Senator Wallman both have had some connection with my company, Farmers' National Company. [LB701]

SENATOR LOUDEN: Questions for Weston? [LB701]

WESTON MURRER: Questions for Wes. [LB701]

SENATOR LOUDEN: Senator Wallman. [LB701]

SENATOR WALLMAN: Glad to see you here, Wes. We've known...my father and Wes have done business for a long time on one particular piece of real estate and good to see you. [LB701]

WESTON FURRER: Thank you. [LB701]

SENATOR LOUDEN: Thank you for... [LB701]

WESTON FURRER: I wanted to mention happened to be in Senator Nantkes' district and I walked by her office and I left a message for her to support LB701. [LB701]

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SENATOR LOUDEN: (Laughter) We won't hold it against you. [LB701]

WESTON FURRER: Do I have to say whether or not I voted for her? [LB701]

GALE LUSH: Good evening. My name is Gale Lush, G-a-l-e L-u-s-h. I'm happy to be here Senators, Chairman Louden, Senators. I'm representing the Nebraska Farmers' Union. We had a board meeting and the sense of the board was that we would support old LB701 because our president who had some fact-finding over the last few weeks, had come to the conclusion that water augmentation through inter-basin diversion was one of the best tools that we had available outside of regulating farmers into economic disaster. That is the only authority I have. The board has not looked at the new bill, LB701 but I personally have some comments on it. I've looked at some of the allocations and I've noticed that the allocations within counties have been equalized. In the past--I was at the meeting where the DNR Director, Ann Bleed was participating with Governor Heineman to break the bad news that the people in the quick-response areas might only get 2.8, 2.48 inches while the people in the upland wells which have very little effect on the river, would be cut back 15 percent to 9.6 inches. I understand that they were very upset with that thing and it looks like it's been equalized under the Plurality of Rights Doctrine or the share-and-share-alike, or we all are in this together, so we each get an equal proportion. That's fair within the county but when you go from east to west you got 6 inches in Nuckolls and 11 inches in Lincoln and we had one testifier already that's said they've had serious declines in some of those counties, I've heard as much as 100 feet and seen that in the Omaha World Herald editorial or layout a couple of weeks ago. There's some serious declines in those areas, but if we are going to go to some type of a market system as the new LB701, and I'll have to preface that again that it's my opinion, and it's the new LB701, then I think we should go back to the beginning and just divide up the water evenly amongst all the participants and if Senator Carlson says that's 9.9 or 10 inches, I guess that would be the fair way to do it because I know the quick-response people didn't like it when they were only going to get 2.8, and I can understand why Nuckolls County didn't like it when they were only going to get 6. And if this is...if we're not operating under first-in-right, first-in-time, we're basically, it's kind of the village common. And if we are going to divide up the village common then if 10 inches or 9.9 inches is the allocation then that's what it should be. And if there's going to be a market then we start marketing, or transferring those allocations amongst ourselves. But I guess as far as conservation, we've talked a little bit about that. The Farmers' Union would not support reduction of conservation measures at all. I know that we do not have to have a board meeting to find that out; that would be something that would go completely against their philosophy. Conservation has been a good thing for people in the Republican River Valley. I know I didn't support meters in the beginning; then when we put them on I found out that we were a lot better farmers than we ever had realized. We were operating on less water than we thought was ever possible. And so some change isn't all bad and if we have to make some sacrifices that's fine. I just want to make the Senators of the Natural

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Resources Committee aware that not all of us contributed to the problem at the same pace or the same amount. Where I live in Wilcox and Holdrege areas, the upland well area, according to the Cochise Report we only affect the rivers, either the Platte or the Republican, about 2 to 9 percent and that's over 40 years. That's a very minimal amount and I'm willing to do my part as far as sacrifice because I do not want to go to a federal judge and face the chance that we will have all irrigation shut off. That would not be good for anyone, but at the same time I think if we are going to fair let's just figure out what's in the pie and divide it up. I think Senator Carlson has got a good idea and I hope this (inaudible) off a little bit, it's actually 11 inches but I'm afraid he's probably right. Those are the only comments I have for today. To summarize I guess as far as the new bill if we are going to make allocations the same, north, between those quick-response and the upland wells within the counties, then we got to make them the same from the eastern counties like Nuckolls which is only being proposed to have a 6 inch allocation to the western border counties are near Colorado that are proposed to get 11 inches. We all own part of this resource so if we are going to divide it up let's divide it up equally. [LB701]

SENATOR LOUDEN: Any questions for Gale? Seeing none, thank you for testifying. [LB701]

GALE LUSH: Sure. [LB701]

TERRY ANDERSEN: My name is Terry Andersen. I live three miles from the Colorado border. I moved into Nebraska in 1997. I left a job in Colorado that I was the highest-paid hired man because I wanted to raise my family and start farming on my own in Nebraska. I would like to support LB701, I guess more of the green version. I'm not real sure of how far Senator Christensen is promoting any kind of a transfer but watching what Colorado has done with moving their water in their state makes all the sense in the world to me and I'll just give a real brief...because I know we need to be short. Up until March 1, between October 31 and March 1 of the next year, they do not have to let a drop go by into Nebraska. And what they're doing is they're sinking wells in the center of river beds, they are taking water out of their reservoirs and they are putting them into augmenting ponds. They've been approximately the same drought that we have in the last eight years that this has been going on, they've dropped their water level to zero, absolutely zero. And if you don't believe me you can look at Colorado Hydrology, look on a search engine, perhaps Yahoo, you can go right to their site, they are very proud of this. Some of the people that weren't doing what they said, I went up and saw an order that was on the panel: cease and desist. Now I certainly hope we don't have to empower the Legislature to go out and start doing that. I think we can do this at the NRD level. My thing is I would like to see Mr. Christensen and you folks be very open to the possibility of transfers. I think when you look at them pretty hard--whether or not it's going to work, who know? But let's not go to the plate hoping they walk us through, let's grab a bat and at least take a swing at some things. I'm just

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like other folks here, I want to hand my kids down the farm but they need a glass of water to drink, but I want to make sure that they have something, a viable deal. I don't want to get it down to 6 inches where we can't do anything with it. And I understand that there is going to have to be some cuts but I think that if we could possibly do some transfers and look at other things that other states are doing which I think is miraculous, I think we can do a lot to save where we are at. Senator Louden is going to know this gentleman I'm sure, he's from Scottsbluff, his name is Hod Cosman (phonetic), he's a very much proponent of water. And what he told us at a Leed (phonetic) Seminar is was is that the county above him had 800 and the county below him had 1,600 and without irrigation he would not only be in the middle of them geographically, but he'd be there in the population as well. So I think any time that we start cutting it down without looking at other avenues, I think we could be of detriment to ourselves. I don't have a big title, I'm not representing anybody but myself but that's my opinion. [LB701]

SENATOR LOUDEN: Okay. Questions for Terry? I have one. When you say you are at the Colorado line, which part of the Colorado part of the line do you live near again? [LB701]

TERRY ANDERSEN: I'm on the very southwestern corner of Nebraska, more western than south, sorry. [LB701]

SENATOR LOUDEN: Okay, and how far from Kansas? [LB701]

TERRY ANDERSEN: I'm on the Colorado border not Kansas, I'm quite a ways from Kansas. [LB701]

SENATOR LOUDEN: You're up around the Panhandle then? [LB701]

TERRY ANDERSEN: Well, no I'm below the Panhandle. I'm straight west of Imperial. [LB701]

SENATOR LOUDEN: Oh, okay, yeah. And you said that Colorado...then the water that comes by you comes on the...is the Republican River or which...how? [LB701]

TERRY ANDERSEN: I'd be in the Republican River Basin. [LB701]

SENATOR LOUDEN: Yeah, okay and that's the one that they're sinking the wells in? [LB701]

TERRY ANDERSEN: The Platte is where they are sinking the wells in. [LB701]

SENATOR LOUDEN: Up in the South Platte? [LB701]

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TERRY ANDERSEN: Yes. [LB701]

SENATOR LOUDEN: Okay. And then that was off the South Platte where they shut what, 1,400 wells off? [LB701]

TERRY ANDERSEN: That was above them who did not comply. Some people had sold their water, rented the ground back out and they knew they could pay an \$80 fee and they may get their water back and they may not, if the landlord had already sold his water. If you pay me an \$80 fee you got a chance at losing your water. Some of those did it; others were not augmenting to what the state has regulated them, and yes, those were shut off. [LB701]

SENATOR LOUDEN: Now in Colorado the water goes with the land? [LB701]

TERRY ANDERSEN: Yes it does. [LB701]

SENATOR LOUDEN: And in Nebraska why it's everybody share-and-share-alike for groundwater, right? [LB701]

TERRY ANDERSEN: Well I will back that up saying that Colorado is the same way. It's everybody's water whether you live in downtown Denver or whether you live in the very eastern tip of it. [LB701]

SENATOR LOUDEN: But you can sell your water off your property or whatever they do... [LB701]

TERRY ANDERSEN: Yes you can. [LB701]

SENATOR LOUDEN: Okay. Thank you. Other questions? Thank you for testifying. Go ahead. [LB701]

MIKE DELKA: Senator Louden, committee members, my name is Mike Delka, D-e-l-k-a. I am the manager of the Bostwick Irrigation District in the eastern portion of the Republican Basin. And it is the position of our board that they are in favor of any activities that would enhance the water supply of the basin. And I will not go into a lot of personal feelings on that but I would like to commend many of you Senators who have at least acknowledged that there is surface water out there even though there is nothing we can tangibly hold. Okay. [LB701]

SENATOR LOUDEN: Okay, questions for Mike? Seeing none, thank you for testifying, Mike. Is this the last proponent testifier? Got one more? You're a proponent? Okay, is this the last proponent though? Okay, I was going to say if nobody's in the chair then I'll call for opponents. Okay, go ahead. [LB701]

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JEFF WALLIN: My name is Jeff Wallin, J-e-f-f W-a-l-l-i-n. I am currently a director on the Upper Republican NRD however I am not speaking for them at this time, I am speaking for them as an individual. First of all I would like to address Senator Carlson's comments as well as some of the previous people about the allocations. I guess I'd propose a trade. You give us more rain, we'll give you more allocation. Because currently the way it works out is we get far less rainfall therefore if we are going to be equal on that plane, we need a higher allocation than you guys. The second thing that I would like to address is this, in my opinion, is a state problem. I think the state signed the agreement, they got us where we are at now and the state has plenty of water. Millions of acre-feet flow out of this state every year. I think we need to get some plans together to move the water around to where it is needed. And in fact Senator Louden, I think we could help your area out too if we get some of these plans in place. Third I believe that up to this point the irrigators have taken most of the blame. Other causes are talked about but the irrigators have been asked to shoulder all of the economic burden to this point. I guess we as irrigators, at least in my area around Imperial, we are already deficit irrigating. We have been able to deal with the allocation reductions that we've been dealt so far. But at some point those cuts will be too deep and they will cause economic hardship if not economic devastation. I agree with Senator Fischer that we need local control over our groundwater. And for those who don't know, currently DNR recommends what our allocations be. In fact there's been quite a little press recently about what they recommended in McCook. And so then they also have to approve the IMPs so there is already state input about what those allocations should be. And in response to some earlier testimony from Mr. Friehe that the NRDs haven't or can't do their job, we have made cuts. And as we saw on the chart earlier our consumption is going down. The problem is our allocation is going down faster. So to say that we haven't or don't have the ability to do our job I think is a misrepresentation. The last thing that I would like to address is it was earlier talked about retaining and attracting young people. Well I believe that some of the things that are talked about as far as buying out of irrigation rights, the CREP Program that's already been implemented, and just in general, any kind of shutdown in irrigation is going to affect our young people disproportionately because those generally are the people who don't own the land. They come back and they're trying to get started, they are renting ground, they're highly leveraged. When we buy out or reduce their allocations or completely take that away, a lot of those payments go directly to the land owners and then the younger generation that's trying to farm that ground either loses that or loses their ability to make the payments on the loans that they have to operate with. That's all I have at this time. Thank you for the time. [LB701]

SENATOR LOUDEN: Any questions for Jeff? Senator Carlson. [LB701]

SENATOR CARLSON: Senator Louden. Jeff, thank you for your testimony. It's good that we live in a state where we can look one another in the eye and we can have honest differences of opinion, share-and-share-alike doesn't take into account rainfall. I

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know the one that's in charge of rainfall and I try and follow him and believe him. He does as he sees fit. And so I really have difficulty in how we can go from 11 down to 6 and that be fair. So we've just got an honest difference of opinion there but I appreciate your testimony. [LB701]

JEFF WALLIN: Could I just respond to that real quickly? [LB701]

SENATOR LOUDEN: No (laughter) unless there is somebody else that has questions. [LB701]

JEFF WALLIN: Okay, thank you. I appreciate it. [LB701]

SENATOR LOUDEN: Thank you. Is this the last proponent? Then I would suggest any...how many opponents do we have? Okay, four. Are there any opponents in the overflow room? If there are they can come here to the hearing room at the present time and we'll be ready for them because that will be next. Go ahead, Sir. [LB701]

LEE CARSKADON: My name is Lee Carskadon, L-e-e, Carskadon, C-a-r-s-k-a-d-o-n. I farm in the Republican Valley between Edison and Arapahoe and just about half a mile from where Mark Christensen grew up. I've known Mark since he was a...bulge in his mother's belly (laughter). So anyway, the point I would like to make about where I am at that irrigation is not an option, it is a necessity for us. A little history...I'm a third generation farmer on the farm where I'm at. In, well I don't know, probably about 1925 or 1926 my grandfather was irrigating about 140 acres from the Republican River. The '35 flood devastated all of that and screwed up all the infrastructure and the river changed its channel and really messed the farm up. So irrigation from the river became impossible. He drilled an irrigation well just west of my house oh, about 1940 and that thing was in use until the mid-50s when I moved the location a little bit. One of the things that has happened since 2002 we've tried to become as efficient as we can with irrigation water and many of us have gone out and invested in center pivots which I have done and that effectively is a self-imposed tax because I still got to make those pivot payments I haven't gotten paid for yet. And if you don't run water through those things, you ain't going to get them paid for. Another thing I'd like to make a point, we were talking about an even amount of water and maybe that's okay but you need to take into consideration that there's a difference in types of soil. And on my farm some places I can irrigate with 9 or 10 inches and raise a full crop. I got one pivot that I put in the CREP Program a couple of years ago; it took a minimum of 15 to raise a crop. So one size fits all sometimes doesn't fit all. And I guess that I've run to the end of my comments. [LB701]

SENATOR LOUDEN: Okay, well thank you. Questions for Lee? Seeing none, Lee, thank you for testifying. [LB701]

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LEE CARSKADON: Thank you. [LB701]

SENATOR LOUDEN: (Exhibits 18, 19, 20, 21) Okay, now we will go to opponents. And at the present time I will read in some letter of opposition. Rex Felker is in opposition to LB701. Erick Erickson, Jr. of Holdrege in opposition. Thomas Epling in opposition, and then the Nebraska Farm Bureau signed by Steve Nelson, first vice president, is in opposition to LB701. With that, go ahead, Sir. [LB701]

JERRY KUENNING: Good afternoon or maybe good evening, Chairman Louden and members of the committee. My name is Jerry Kuenning, spelled J-e-r-r-y K-u-e-n-n-i-n-g. I'm a third generation cattle feeder and farmer from north of Imperial, Nebraska. I served on the Upper Republican NRD for 25 years. I'm a member of the Nebraska Cattlemen and on behalf of thousands of ranchers, farmers and feeders from across Nebraska I come to you to speak in opposition of LB701. I would like to thank our local senator, Senator Christensen, for bringing this issue to the Natural Resources Committee for consideration and input. The matter of compliance with the Upper Republican River Compact is of dire urgency and will demand short-term sacrifices for all of us and quite possibly long-term sacrifice of a few. It is our intent and commitment as a multifaceted industry, local businessmen who associate because of our cattle to be part of the solution. Nebraska Cattlemen legislative committee met on January 24 and voted to oppose LB701 on three basic principles. The proposed BAC create an additional layer of bureaucracy. The increased NRD level authority would raise property taxes. And lastly, Nebraska cattle members are adamantly opposed to the trans-basin diversion of water. Nebraska Cattlemen wish to compliment Senator Christensen with regard to AM476. It is his noble effort to craft policy that can be used in any river basin subject to interstate water compact. That being said, we are opposed to AM476 for the primary reason that Section 4(1)(a)(i) causes the Legislature to allocate water rather than the local NRDs. In addition, this bill allows for the sale and purchase of water between willing buyers and sellers. This practice, though not new, has never been enabled by state statute in the state of Nebraska. Our concern is that this bill does not facilitate any monitoring of such transactions. Nebraska has made a 30-year investment by local citizens working within the NRD structure to craft long-term water policy. This bill is a total shift of that policy direction. Nebraska Cattlemen are concerned that Nebraskans may be making significant water policy decisions during historical economic season influenced in large by high commodity prices such as the \$4 corn we're witnessing today. We are at a juncture where the value of water may very well exceed the value of our land. Nebraska Cattlemen believes that equal reduction of surface water use as prescribed in Section 4(1)(b) is a fair and equitable short-term proposal. However, in period of drought, this action does not offer a solution to compact compliance. There's no description of methods for compensating holders of surface water rights for the 25 percent reduced allocation. Finally, Nebraska Cattlemen have concerns regarding the concept of change in net revenue. This precedence is dangerous in public policy, has no predictable cost, and appears to have no end in that

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cost. Section 4(1)(d) describes that DNR shall do with regard to riparian vegetation. Although we testified in support of said action in the previous bill earlier today, we voice concern over the finite mandate regarding the percentage of reduction without a reference to time line. In addition, we pose the question: What if there's not sufficient private industry for the DNR to contract to achieve the mandated reduction? Section 4(1)(e) describes the augmentation as an option for achieving compact compliance. Nebraska Cattlemen have repeatedly stated that borrowing water from one location to satisfy the needs of another location are not long-term solutions. Section 6(1)(a) requires the department to review any proposals submitted assuming a payment of \$2,500. We suggest inserting language requiring that any requests be submitted in forms provided by the department. This should streamline the process by clarifying what information is required for both the person submitting the proposal and the department staff responsible for said review. Nebraska could support in concept many of the finer details within this amendment. And it is our opinion that one thing this bill does not address is the needs of the funding and the needed revenue for compact compliance. Where is the money going to come from? Where is it going to go? We believe the NRD structure is the only logical means of collecting and disbursing the matching funds from the state as all citizens have a vested interest in this issue. Mr. Chairman and members of this committee, this Legislature has the potential to both benefit and harm the individuals, families, and even the communities. As I stated earlier, we are in dire times. The study period is over; we're in the classroom; we're taking our test. Now more than ever we need the wisdom beyond our years, the integrity at which our grandchildren will marvel, and the stamina to endure the criticism of what is right. We, Nebraska Cattlemen, are committed to being part of this solution. I thank you dearly for this privilege to share with you today and would be pleased to try to answer any questions. [LB701]

SENATOR LOUDEN: Any questions for Jerry? Senator Fischer. [LB701]

SENATOR FISCHER: Thank you, Senator Louden. Thank you, Mr. Kuenning, for being here today. You spoke about water transfers and selling water. And even though I realize your comments were addressed to the green copy instead of the amended copy, I'd like your thoughts on that. Nebraska Cattlemen is opposed to any water transfers. Is that correct? [LB701]

JERRY KUENNING: That is correct. I believe you have to realize that we live in a period of time where precedence of law is kind of the norm. Does this give Kansas the right to transfer the Platte River on down? It's a question that could be raised. I don't have the answers, but those things have to be looked at. There's a possibility of what Senator Schrock said is feasible. It has to be looked at. But let's be very cautious in how we do that in the transfers. And, yes, Nebraska Cattlemen oppose it. [LB701]

SENATOR FISCHER: I had another question. You said that Nebraska Cattlemen was

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opposed to the bill because of the increase in property taxes. Was that right? Yes or no. [LB701]

JERRY KUENNING: We are opposed to any increase in property tax. [LB701]

SENATOR FISCHER: But yet you later said that the NRD structure should be the tool to collect and remit funds. [LB701]

JERRY KUENNING: This doesn't have to be a property tax increase. [LB701]

SENATOR FISCHER: But for the NRDs... [LB701]

JERRY KUENNING: Excuse me. [LB701]

SENATOR FISCHER: ...in order to do it, wouldn't it have to be a property tax increase with the NRDs having an increase in their levy for them to be chosen to remit the funds? Or why would you support having the NRDs do it? [LB701]

JERRY KUENNING: There are many tools to be available in our toolbox. [LB701]

SENATOR FISCHER: (Laugh). [LB701]

JERRY KUENNING: One of them is a property tax. The other one is an assessment of land tax. It was mentioned earlier the possibility of the checkoff type system. But the one tool we are missing today for compact compliance and to reimburse the people that are having to make the sacrifice is money. If you're going to idle surface irrigators, they need to be compensated. And where does that money today come from? Where do the NRDs have that available money to work with? We don't have. [LB701]

SENATOR FISCHER: Well, that was my question to you. [LB701]

JERRY KUENNING: And my answer is there's several tools. [LB701]

SENATOR FISCHER: How about another tool being if the state is going to appropriate money for this area, would you still want the NRDs to be the ones that would have the authority over the funds and have also the responsibility of the accountability? Would you want the state to have the money...have the funds if we appropriate any flow through the NRDs? [LB701]

JERRY KUENNING: Yes, I would, (inaudible). [LB701]

SENATOR FISCHER: Okay, thanks. [LB701]

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SENATOR LOUDEN: Other questions? Seeing none, thank you for testifying. [LB701]

JERRY KUENNING: Appreciate it. Thank you. [LB701]

CLAUDE CAPPEL: (Exhibit 22) Senator Louden, Natural Resources Committee, my name is Claude Cappel, C-l-a-u-d-e C-a-p-p-e-l. I'm from McCook testifying against this bill. I think there needs to be some bill. I was on Governor Johanns' and Governor Nelson's state water policy for the Republican Basin going through the negotiations. I'm also on the water task force, but I'm speaking as an individual. The intent of any legislation should be to treat all water users fair, reasonable, and nondiscriminatory. This bill does not do it. It is saying it's okay to take someone else's water rights in the name of economics. The Legislature should be concerned with the equal rights of all of its citizens, and not a majority of a single category of beneficiaries of the state's water resources. The water belongs to all the people of Nebraska for their beneficial use. Beneficial use is also recreational use, surface water irrigation, and wells in marginal areas. This bill will allow the drying up of the water to those users. There is a problem that was caused...this is a problem that was caused by the state of Nebraska in the passing of LB375 in 1982. The state gave the overlying landowner the ground water underlying his or her land that was already appropriated to surface water irrigation districts and had studies showing their consequence. It did not provide for any enforceable way to protect the correlative rights of other landowners when the ground water supply is insufficient for other users. The bill also stated: The Legislature determines that the goal shall be to extend ground water reservoir life to the greatest extent practicable, consistent with the beneficial use of the ground water and best management practices. There was no provision for protection of surface water. It encouraged the depletion of the aquifer. The bill put NRDs in charge of ground water and DWR, later becoming DNR, in charge of surface water. Since the passing of that bill, DNR could only recommend to the NRDs. The NRDs have been very reluctant to do anything DNR recommends in order to protect surface water. The basin NRDs did receive authority with the passing of LB108 in 1996 to adopt an integrated management plan to retain surface water flow. When funded in 1997, the Republican River Basin NRDs started a joint management plan. After Kansas filed suit in 1998, the Nebraska Attorney General put a stay on the NRDs doing anything to curtail new irrigation development. The reason was it would show a sign of weakness toward Kansas and the state wasn't removed until sometime in 2002, but the last district to go in was December 16, 2002. Even now at the Water Policy Task Force meeting last March, Dave Cookson with the Attorney General's office stopped Robert Ambrosek, Jack Maddux, and Claude Cappel, each being a Republican River Basin irrigator, plus Ann Bleed from trying to have the Republican Basin become sustainable. At the Water Policy Task Force meeting August 23, 2006, in Kearney, Dave Cookson said: I cannot make this any clearer. You will not discuss Republican Basin issues and dollars. Any further discussion will take place from the agencies that can actually do something about the issues: DNR, NRDs and AG. The Republican Basin NRDs circumvented the intent of

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the settlement, allowing thousands of new acres to be added after the settlement and should be held accountable for that action. Prior to that settlement, the state of Nebraska should be responsible for the shortfall of meeting the compact. Any landowner who wanted to irrigate and cannot because of a moratorium, any business who had depended on water recreation, surface water irrigation, or people whose wells had been dried up and are not going to look very favorable toward paying additional taxes in order to keep the people irrigating who depleted the supply of the aquifer. If the state justly compensates those people, it wouldn't be as painful. Let the NRDs meet their financial requirements with the taxing authority now in place. Place on a state assessment per acre or per acre inch on all irrigation in the state to get sustainability in the state. Keeping the basin in compliance and being sustainable mean two totally different things. In compliance you can keep depleting the aquifer, which will dry up the streams, rivers and dry up wells outside of the abundant aquifer boundaries that do not have the depth of water saturation. This can continue until surface water is all gone and only those over the deepest aquifer are still pumping. By drying up streams and rivers and wells, a basin will become sustainable. We will be like Texas, Oklahoma, and Kansas. The Arkansas River was the fifth largest river in the United States is now virtually dry to Wichita. Do we want this for our state? A basin should be sustainable while meeting its compact and other agreements, otherwise the lag effect compounds. The question is at what level do we set sustainability? Surface water irrigators have lost their water for appropriated surface water rights are now having their rights taken away for a second time as their wells dry up. A better plan would be for the Legislature to put legislative mandated guidelines that DNR can direct and enforce, preferably by basin and the NRDs would carry out the intent of the legislation. The liability of meeting the compact and agreements is the state of Nebraska's responsibility and where the liability will rest. Until there are penalties for legally circumventing or not following the legislative intent, circumventing will continue. A note of caution: Around 1980 Frenchman Cambridge, Hitchcock and Red Willow and Frenchman Valley Irrigation Districts spent quite a bit of their time and money trying to transfer water from the South Platte to Enders. DWR and the state stopped this from happening. Ironically, in just a few years the South Platte went basically dry and has been since. Not getting that permit was the best thing that happened for those irrigation districts as their patrons would still be paying for it. Somewhere there has to be common sense applied. Do what correlative rights mean and that is all share in the shortage...equally in the shortage. The sooner we get sustainable the less pain there will be in the future. I have a few more comments on the last page, but this is basically what I have to say. [LB701]

SENATOR LOUDEN: Okay, thank you, Claude. Questions for Claude? Thank you for your testimony. It gives us quite a history lesson. Thank you again. Next opponent. [LB701]

LUCAS HAAG: (Exhibit 23) Good afternoon, Senators, or good evening rather. My name is Lucas Haag, L-u-c-a-s H-a-a-g. I'm from Bartley, Nebraska, which is located

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within Red Willow County. My comments are going to diverge somewhat from the written testimony I've provided you in response to some of the other things that have been said today. This evening I speak to you in opposition of LB701 and its current form of AM476. I have several key concerns with the bill and the water management philosophy that it promotes. The original bill was a flawed plan in my opinion, and the current amendment is basically a shell. The first thing I'd like to address is when we get into talking about conservation, and I wish Mr. Smith's pictures were still on the board. I'm not sure what previous speakers were alluding to, but if anyone leaves this room under the allusion that conservation retained water only in the state of Kansas, I'm afraid they're naive. The same conservation procedures which were implemented through a federal mandate were applied in all three states--Kansas, Nebraska, and Colorado--respectively at the same time. And thus, all three states share and share alike in the effects of conservation and its impacts on stream flow. And I think for that reason conservation was left out of the Republican River Basin model except for one exception dealing with evaporation from nonfederal storage. As (inaudible) with conservation I think what it appears to me is the attempt to allocate 65 percent of the responsibility to conservation is a method to shift blame so that it can be paid for by the taxpayers of the state. I think another problem with that is, is that 65 percent does not take into account the conservation being caused by Colorado and Kansas. So in essence, the people of this state would end up paying for the conservation measures implemented across the entire basin. If it is desired to allocate blame to conservation, it can only be effective if corresponding adjustments are also made to the accounting of recharge. It is not said by anybody today except asked by a senator's question about that impact. Allocation to conservation without considering the benefits provided to the recharge rates are inaccurate. The action of partitioning essentially shifts blame to a component that is largely exempt from the basin...from the compact administration calculations in Nebraska's current over/under use of basin waters and is misleading. If we was to think of this in the framework as if was to do away with conservation practices and we was going to transfer that water retained by conservation, the other component to that is, is on that picture of the field that was shown, an inch of water if we're talking...everyone loves to talk about economic benefit, that inch of water has more economic benefit conserved on that dryland field than it would be transferred as a thirteenth inch of any irrigation regiment. And because water is a declining input, and that inch of water will produce more bushels of corn per inch of water at that point on that dryland field than it will just a thirteenth inch in any irrigation setup. And so if we want to talk about economic benefit, then let's talk about what the economic benefit of grain production from conserved water is as well. My second concern with LB701 is the concept of an annual state initiated water purchase program. LB701 initiates a program whereby the state has the ability to purchase water at a change in net revenue cost, which is not defined as to whose figures is going to be used. And that's a question that must be addressed. Is it going to be one value for the entire basin; one value per county based on NASS statistics, or is each producer going to be able to submit their own cost structure and historic proven yields and receive their own individual payment? The net

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returns between dryland and irrigated production are not constant across environments nor producers. The implementation of such a program neutralizes management and essentially creates a subsidy for those producers with relatively poor management ability as they have the opportunity to generate the same net returns as average or better than average managers. Depending upon the structure, the program also basically presents a 100 percent guarantee crop insurance policy for no premium cost and no risk assumed by the producer taking the payment to go from irrigated to dryland. So it's always brought up, what are our policy alternatives and what do I feel is a possible way out of this situation or to deal with it? And it's been stated here already today and I believe that most irrigators would agree that doing nothing is not an option as they fear complete loss of access to the water. Reductions in consumptive use not only help prevent such a legal scenario of complete loss, but also prolong the usable life of the aquifer, a fact that is commonly forgotten. Thus the producers who continue to irrigate benefit from the retirement of acres due to both effects, in addition to any past financial gains. For this reason, I believe an assessment on irrigated acres for the purpose of building a retirement fund is logical. This approach has been successful in the Republican Water Conservation District of eastern Colorado. First initialized in 2004, the district has assessed \$5.50 per irrigated acre. And according to a recent press release anticipate having \$5.5 million available for buyouts and EQIP cost share. I find it intriguing that producers merely across the state line in the Upper Republican find this concept acceptable. I concede, however, that local economies benefit from irrigation. However, they are not the first recipient of economic gains and contrary to beliefs held by some, would remain sustainable in an economic mix of limited irrigation, dryland cropping, and ranching. Thus I do not believe that any significant portion of the financial burden should be applied to the nonirrigating general public of the basin as proposed by the property tax concept in the initial draft of LB701 or in the sense of an additional grain checkoff that would not be segregated between irrigated and dryland producers. I believe that the most equitable and economically optimal situation would be a reduction in allocations necessary to meet compact compliance in the long term, coupled with the ability to transparently buy and sell water. Essentially implement a free market type program where water can be transferred as long as it does not hurt our stream flow values or raise our overall beneficial consumptive use. Such a system would allocate water to the most official users, would result in the highest water efficiency of use for the entire basin. I, too, would like to return to this region and have it be a stable but more importantly a sustainable agricultural economy. I believe that this can be accomplished with minimal government intervention. I think going to a free market type situation would allow people to make their own decisions with water and eliminate the harmful impacts of buyouts such as we've experienced with the CREP program. This concludes my comments, and I welcome any questions that I can answer. [LB701]

SENATOR LOUDEN: Questions for Lucas? Senator Carlson. [LB701]

SENATOR CARLSON: Lucas, thank you for your testimony. Did you say where you're

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from? [LB701]

LUCAS HAAG: Bartley, Nebraska. [LB701]

SENATOR CARLSON: Okay, Bartley. [LB701]

LUCAS HAAG: Red Willow County. [LB701]

SENATOR CARLSON: What do you feel about equal allocations or share and share alike? [LB701]

LUCAS HAAG: I think if we're going into this with a policy mind-set and our goal is that, okay, we make the argument that we're going to treat upland wells and quick response wells equally because we want it to be fair and equitable so is not equitable the opportunity for everybody within the basin to produce the same yield or the same gross product? And if that's the case, then I think allocations do need to be varied across the width of the basin because it takes...simply as a matter of climate, it takes more water in Chase County than it does in the areas below Harlan Reservoir. And so I mean we've already went down this road of making policy decisions to be equitable. And I think if that's our goal, then those changes in allocations are appropriate. [LB701]

SENATOR CARLSON: So that's what share and share alike means to you? [LB701]

LUCAS HAAG: I understand what you're getting at and as far as share and share alike, but I guess I don't have a better response for that other than I think that if our goal is to be equitable in a producer's ability to produce a crop then we need to correlate the allocations respectively. [LB701]

SENATOR CARLSON: Okay. Thank you for responding to the question. [LB701]

SENATOR LOUDEN: Other questions? Thank you, Lucas, for testifying. Next testifier. [LB701]

DEAN EDSON: (Exhibit 24) Senator Louden, members of the committee, my name is Dean Edson, spelled D-e-a-n E-d-s-o-n. I'm executive director of Nebraska Association of Resource Districts. I wanted to...I was asked to present this letter to you. Jasper Fanning had originally intended to come in and testify on behalf of the Upper Republican NRD against LB701 with the amended version. And so I wanted to present that letter to you. Basically the comments that he's made in here are the same comments that he made on LB458 where he outlined what we're trying to do with the Department of Natural Resources to address this issue. And that is that we need to look at various different management techniques such as riparian management, look at surface water leasing to get us through on the short term, and also look at the funding

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issue. He laid out several funding options and we're open to any discussion on those with the interested parties to develop the state and local funding portion of this program to get the basin in compliance. I've also been asked to mention Farm Bureau had to leave, and I know that they wanted me to mention that they dropped a letter off with the clerk here to...in opposition of LB701. Any questions? [LB701]

SENATOR LOUDEN: Yes, Dean, we did get the Farm Bureau letter (Exhibit 20). Questions for Dean? Seeing none, thank you, Dean. [LB701]

DEAN EDSON: Okay. [LB701]

SENATOR LOUDEN: Next opponent. [LB701]

WILLIAM BARGER: My name is William Barger, W-i-l-l-i-a-m B-a-r-g-e-r. I'm not really against LB701. I'm merely kind of in a neutral position. I think it needs an awful lot of... [LB701]

SENATOR LOUDEN: Well, you'll have to testify a little bit later... [LB701]

WILLIAM BARGER: Okay. [LB701]

SENATOR LOUDEN: ...if you're in a neutral position. [LB701]

WILLIAM BARGER: Okay, I'm going to be in neutral position. Okay. [LB701]

SENATOR LOUDEN: If you want to testify to that, we'll take that after opponents. Don't go too far because we may be out of opponents. [LB701]

WILLIAM BARGER: Okay. [LB701]

SENATOR LOUDEN: Are there any more opponents to testify against LB701? Seeing none, then, William (laughter). [LB701]

WILLIAM BARGER: Do you want to go first? [LB701]

SENATOR LOUDEN: (Exhibit 25) Okay, I'll mention at this time for the record that we have one letter in neutral from Ryal Meyer from Brule, Nebraska. Go ahead, sir. [LB701]

WILLIAM BARGER: Well, I think this bill needs a lot of amendments or changes to work. My name is William Barger, W-i-l-l-i-a-m B-a-r-g-e-r. I live in the middle of the Republican west of McCook. I've been selling water in the Middle Republican for about three years. I think if you want to talk about transfers and stuff, the Middle Republican's, the way they have that set up is an excellent way to look at that. You can only move

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alluvial into alluvial. The alluvial can be moved to the upland, but you cannot move the upland to the alluvial, which is similar to Smith's bill, but he's way too vague. I think you need to leave the control of what these allocations are and just the way they are right now with each individual NRD. I've been buying and selling water here for two or three years with the idea that the end of 2007 a lot of people that are doing this are going to roll 13 inches into the next allocation period. So how is that going to be affected that way? I mean is that going to be something that's going to be allowed? That's something they need to answer themselves. Something else, I think this thing with Kansas needs to be completely renegotiated. I think we might be running away from a wolf that's really just a puppy dog. Most of this water is worth about \$5 or \$6 an inch. If you look at the way they set up the EQIP thing, which figures out about \$62 a year, that's about 5 bucks an inch for 13 inches which is what our allocation was. That's how I arrived at \$5 an inch. So if you talk about being short 32,000 cubic feet to Kansas, if you multiply that by 12, multiply it again by 5, you're talking about \$1.9 million. Now you're talking about more than that just cleaning the trees up. Now there is a dollar amount that Kansas will settle for. There's no guarantee that this LB701 or any of this will ever keep them happy or ever put any water in the ditch anyway. It's ridiculous what some of these state and NRD funds have been used for, where they buy out surface water it's at who knows what price. Right below me is probably the oldest irrigation district in Nebraska. They gave 600 acres \$143 an acre not to use any water out of the Frenchman River. And then they gave the ones across the way in the other irrigation canal I think \$43 an acre. And they could still go ahead and pump their wells their 13 inches. Now that water never made it past Arapahoe. So when you start talking about transfers, unless you're going to put that surface water in some kind of a tube or something where it isn't going to soak away, I mean you got to have a plan here. This is the twenty-first century. Maybe there is some way you can put that in a big pipe and run it to Kansas. But I don't feel that Kansas has anything coming like everybody thinks. I don't think the federal judge can shut this thing down. He would have so many lawsuits against him that he wouldn't know what to do. And if...there's a dollar amount that they will settle for. If there's only 40,000 acres of flood irrigated ground in Kansas and there's 1.2 million in the Republican River Valley, get real. I mean if it was put into CREP it wouldn't be that expensive of a deal. The federal government and the state government need to cover the entire cost of this. They're the ones that put the lakes in. They're the ones that put all these terraces in. They stopped this 85 percent runoff. Man, we need to quit running around like a bunch of scared chickens and face up to Kansas. Let's go back to court and renegotiate it. This isn't 1943. The whole place is irrigated. This idea of the state of Nebraska going out and getting some ridiculous amount for some surface water that doesn't make it ten miles from the dam that you turned it out of, what in the world kind of sense is that? If it isn't going to get to Kansas, let's don't be doing that. And that's all I have to say. [LB701]

SENATOR LOUDEN: Good. We was about to quit anyway. (Laughter) Any questions for William? Thank you for your testimony. And I hope you're testifying in a neutral

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position. [LB701]

ELAINE MENZEL: I am. [LB701]

SENATOR LOUDEN: Thank you. [LB701]

ELAINE MENZEL: Chairman Louden and members of the Natural Resources Committee, my name is Elaine Menzel, M-e-n-z-e-l, appearing in a neutral capacity on LB701. I'm here appearing on behalf of Nebraska Association of County Officials. If the amendment offered by Senator Christensen to LB701 is adopted by the committee, our initial concerns would be addressed. Our association has appreciated working with Senator Christensen and having him address our concerns. We will continue to monitor LB701 and work with Senator Christensen and committee members on this bill. The concerns in the initial bill were the creation of the basin-wide authority without a county representative; the additional levy implications; and the responsibility for upgrading roads. That's the only comments I have at this point. [LB701]

SENATOR LOUDEN: Okay. Any questions for Ms. Menzel? You're with... [LB701]

ELAINE MENZEL: Nebraska Association of County Officials, NACO. [LB701]

SENATOR LOUDEN: NACO. I guess where does NACO fit in on this, but I guess you...I guess I... [LB701]

ELAINE MENZEL: There were some property tax implications. [LB701]

SENATOR LOUDEN: Okay. [LB701]

ELAINE MENZEL: There was the potential for some road upgrades and that type of thing in there too. [LB701]

SENATOR LOUDEN: Well, thank you. Any questions? I guess I was the only one that had questions. My other comment is, yeah, I'd rather listen to you than Larry Dix so thank you. Thank you for testifying. [LB701]

ELAINE MENZEL: Well, I don't know if I'll relay that comment but I appreciated it. [LB701]

SENATOR LOUDEN: Next neutral testifier. [LB701]

DEAN EDSON: (Exhibits 26, 27) Senator Louden, members of the committee, my name is Dean Edson, spelled D-e-a-n E-d-s-o-n, executive director of the Nebraska Association of Resources Districts. I've got two letters here, one from the Lower

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Republican NRD and the other from the Middle Republican NRD in neutral capacity on the bill. They outline their concerns in the previous bill, LB458. I ask if you have any questions. [LB701]

SENATOR LOUDEN: Okay. Questions for Dean? Thank you, Dean. [LB701]

MATTHEW FISHER: I'm Matt Fisher, M-a-t-t F-i-s-h-e-r, and I am the superintendent for Chase County Schools in Imperial. And first of all, I want to note that I'm very thankful that Chairman Louden and Senator Fischer are both allowed that they're Sandhillers. Growing up in Hyannis, I know a whole lot more about windmills than I know about center pivot irrigation. So I'm not going to talk a lot about water. Our school chose not to take a position on LB701. You've heard testimony on both sides from people within our district. And so we certainly felt like it was not the school's position to go one way or the other at this point in time. But I think the thing that I wanted to express to the committee was the very important nature of the whole water issue. And obviously that's been expressed in a number of different ways today. Mike Lucas, the superintendent from Franklin, talked about the financial implications and I think that they are huge. Looking at it from a school standpoint, that loss of valuation that we would see if the amount of acres that have been talked about were moved from irrigated to nonirrigated acres would have a devastating impact on our budgeting. And ultimately because of the way the budgeting and financial process in the state works, everyone would end up paying for that change in our financial position because as our ability to tax went down, certainly there would be somewhat offset by some state aid. You know, I think that as you look at this you can say, well, if we lost those acres you're going to lose people and we lose students. You're right about all those things. But I don't think that you would see an equivalent loss in students and the way that that would affect the financial needs of the students that remained. And so I think it would definitely have a very substantial impact. Mr. Nability talked about the people in Omaha and that they should be very concerned about this issue because this is a state issue. And you know, I know Senator Hudkins talked about not wanting Omaha involved in this, but I think they do need to be involved. And I think that because Senator Carlson's bill and LB701 are the only bills that have been introduced that really deal with the water issue I think it's incumbent upon this committee to put something together to advance to the floor so that this issue does get discussed. What it looks like, you know, like I said, we've taken no position on what it should look like, but we do feel like it's very important that something advance to the legislative floor. [LB701]

SENATOR LOUDEN: Thank you. Questions for Matt? Well, seeing none, another Sandhiller can go home. [LB701]

MATTHEW FISHER: All right. Thank you very much. [LB701]

SENATOR LOUDEN: Thank you. Is there any other one in a neutral position? Does

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anybody from DNR want to say anything in a neutral position at this time? [LB701]

ANN BLEED: Not unless you have questions, Senator. [LB701]

SENATOR LOUDEN: Anyone have questions for Department of Natural Resources?
[LB701]

SENATOR FISCHER: Not at this time. [LB701]

SENATOR LOUDEN: Not at this time so I guess with that if there are no more opponents, I'll close the hearing at this time. But Senator Christensen is not able to close. He had to go with his daughter in the hospital so we will close at this time. (See also Exhibit 28) And, of course, wish Senator Christensen and his family well. Thank you for being here tonight. Thank you for staying and appreciate your hard work.
[LB701]