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Natural Resources Committee  
February 17, 2016

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[LB1070 LB1082 LB1100]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, February 17, 2016, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1082, LB1070, and LB1100. Senators present: Ken Schilz, Chairperson; Curt Friesen, Vice Chairperson; Dan Hughes; Jerry Johnson; Rick Kolowski; Brett Lindstrom; John McCollister; and David Schnoor. Senators absent: None.

SENATOR SCHILZ: Good afternoon everyone and welcome to the Natural Resources Committee hearings for today. My name is Ken Schilz. I'm the Chair of the committee and I serve District 47 and I live in Ogallala. We have many of the committee members here today with us. Senator McCollister said he will be a little bit late, so he'll probably walk in as we're going through the bills. But I'll let everybody, starting over here to my left with Senator Kolowski, introduce themselves.

SENATOR KOLOWSKI: Rick Kolowski, District 31 in southwest Omaha. Thank you.

SENATOR SCHNOOR: Dave Schnoor, District 15, Dodge County.

SENATOR LINDSTROM: Brett Lindstrom, District 18, northwest Omaha.

SENATOR FRIESEN: Curt Friesen from Henderson, District 34: Hamilton, Merrick, Nance, and part of Hall County.

SENATOR JOHNSON: Jerry Johnson, District 23: Saunders, Butler, and most of Colfax County.

SENATOR HUGHES: Dan Hughes, District 44: Red Willow, Perkins, Hitchcock, Hays, Harlan, Gosper, Furnas, Frontier, Dundy, and Chase Counties.

SENATOR SCHILZ: There you go. Thank you, Senators. And also today with us we have Laurie Lage, who is the legal counsel, and Barb Koehlmoos, who is the committee clerk for the committee. We also have a couple pages; I know Jake is here today. One is Jake Kawamoto and he is a junior at the University of Nebraska here in Lincoln, so we're happy to have him today. And sometimes we have a girl named Kellie Wasikowski and she's a sophomore from UNL. So we're happy to have both of them to help us out with the committee hearings. Today we have three bills on the agenda: LB1082, LB1070, and LB1100. And if you're planning on testifying, please pick up a green sign-in sheet from either table at the back. And if you don't wish to testify, but would like your name entered into the official record as being present at the hearing, there's a

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form on the table that you can sign and then this will become a part of the official record of the hearing. Please fill out the sign-in sheet before you testify; please print, and it's important to complete the form in its entirety. And when it's your turn to testify, please give the sign-in sheet to the committee clerk and that helps to make sure that we know who is testifying in what order and that everything gets in there straight. If you do not choose to testify, you can also submit comments in writing and have them read into the official record. If you have handouts, please make sure you have 12 copies for the pages to hand out to the committee. And when you come up to testify, please speak clearly into the microphone. Tell us and spell your first and last names. At this point we'd like to tell everybody to turn off your cell phones so that...put them on silent and please keep your conversations to a minimum. And if you have to take a call or have a conversation, please take those to the hallway if you would. The mikes are really sensitive and could pick up on even somebody whispering in the first row. We don't allow any displays of support or opposition to a bill, vocal or otherwise. We do that to respect the testifiers and to make sure that the folks up here, the senators, can hear. Sometimes it's best if everybody is quiet. My ears don't work too good sometimes, so we'd appreciate that. So whether you like testimony or dislike testimony, please, for the purposes of the hearing, please keep that to yourself. We will be using the light system in the Natural Resources Committee. We'll be giving five minutes. You'll have four minutes on green, one minute on yellow, and then when it turns red we would really appreciate it if you would wind up your testimony and stop at that point and then we can ask questions if we have any. And with that, I will ask Ms. Lage here to introduce LB1082 on behalf of the committee. Thank you.

LAURIE LAGE: (Exhibits 1 and 2) Thank you, Senator Schilz, members of the committee. My name is Laurie Lage, L-a-u-r-i-e L-a-g-e. I'm counsel to the committee, here to introduce LB1082. LB1082 was introduced in response to the Natural Resources Committee's interim study on the Nebraska Oil and Gas Conservation Commission. The final report on LR154 and LR247 made several recommendations for regulatory modifications and policy changes that are intended to improve the public's access and understanding of the commission's processes and to ensure accountability for the safety of the public and the environment. The incident that led to the interim study was the commission's approval of a Class II underground injection well for the disposal of salt or produced water from oil and gas production in Colorado, Wyoming, and Nebraska. Concerns were raised about the application which stated the waste or produced water would come from sites that used hydraulic fracturing to extract oil or gas. Additional issues were raised about the safety of transporting the waste, the wear and tear on the state's roads, and that the application originally requested a 10,000 barrel per day rate of injection. Later these issues became intensified because of the absence of public dialogue in the process the commission used to approve the permit. LB1082 makes some requirements, but mostly authorizes the commission to conduct practices for which it does not currently have statutory authorization. I've handed out a simple explanation of what the bill does that's divided into three sections. The first is a change: there's a change in the policy and purpose statement of the commission. It eliminates the

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encouragement that it promote the industry and replaces it with language that supports development of the industry in a responsible manner while promoting health, safety, and environment...in the environment of Nebraska residents. The bill requires certain things: one, that notice of an application for a commercial injection well be provided to the affected local governing body where the well would be located. It requires operators of Class II injection wells to sample and analyze fluids injected into wells at least once annually and to provide the data to the commission. And it requires operator and bondholders to not revoke a bond without first notifying the commission and to annually submit evidence that the bond is current. Finally, the bill authorizes the commission to conduct periodic sampling and reporting of injection fluids; certify and monitor produced water transporters; conduct periodic evaluation of financial assurance requirements; and authorizes them to require public informational meetings and forums for public interaction on permit applications. There will be a committee amendment that has also been distributed to you that makes some clarifications on the types of wells that these new...that the bill would apply to. And also adds the natural resources district to be notified when there's a permit application, in addition to the local governing body. I'll stop there. There are a lot of people here to testify. And I'd be happy to answer any questions. [LB1082]

SENATOR SCHILZ: Thank you. Any questions for Ms Lage? Seeing none, thank you. So at this point, we'll start with proponent testimony. If there's any proponents for LB1082, please come forward and have a seat. Proponents? Proponents, anyone? Good afternoon. [LB1082]

JAMES CAVANAUGH: Good afternoon, Senator Schilz, members of the Natural Resources Committee. My name is James Cavanaugh. I'm an attorney and registered lobbyist representing the Nebraska Chapter of the Sierra Club. I appear here today on their behalf in favor of LB1082. We have long supported these types of responsible oversight and regulation in the production of energy in Nebraska. And we commend Senator Schilz and the co-sponsors for bringing this matter to your attention. With the development of fracking and other methods of producing oil and gas, these matters become much more important. We sit atop one of the world's greatest aquifers; we all drink the same water. We all breathe the same air. And it's important that we take notice when we, potentially, could tamper with one of our most valuable resources. Certainly, in the twenty-first century the Ogallala Aquifer is as important as any oil and gas deposit that you find underneath the state of Nebraska. And this responsible measure seeks to protect that and other sources of drinking water, and we commend the committee for entertaining this and we would urge you to give it positive consideration and report it to the floor. I'd be happy to answer any questions that you might have. [LB1082]

SENATOR SCHILZ: Thank you, Mr. Cavanaugh. Any questions? Seeing none, thank you for your testimony. [LB1082]

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JAMES CAVANAUGH: Thank you. [LB1082]

SENATOR SCHILZ: Further proponents? Good afternoon. [LB1082]

JANE KLEEB: (Exhibits 3, 4, and 5) Good afternoon. I have a couple of different handouts that I'm going to hand...we only have two copies of these because we sent you the electronic file. Ninety people submitted testimony for the committee hearing today, so that's a backup copy for that. But then I'm going to be speaking about the current way that disclosure is happening in our state. So I have copies of that so you can have a copy of that. [LB1082]

SENATOR SCHILZ: Could you sit in the chair so we can get that on the mike so to make sure... [LB1082]

JANE KLEEB: Yes, sorry. [LB1082]

SENATOR SCHILZ: You're fine. [LB1082]

JANE KLEEB: Good afternoon, Senators. My name is Jane Kleeb and I'm here representing Bold Nebraska. I live at 1010 North Denver, Hastings. So we are here today in support of the bill that is providing some initial, anyway, disclosure on the issue of fracking waste in our state. Bold Nebraska continues to stand at our original call that we don't think that Nebraska should be accepting out-of-state fracking waste to begin with. But we think that this bill is a step in the right direction to at least have some level of disclosure and some accountability for the wells that could, potentially, be in our state. Nobody has to kind of open up the newspaper to know that there is a ton of concern that is both science-based and landowner-based around what happens when you inject fracking waste into the land and into the water. Oklahoma is facing record earthquakes; Kansas, Canada, Texas, the list goes on. We have no idea the amount of volume that we could potentially see in our state. We think that the way that currently disclosure happens and in several of the hearings that have happened on this issue, the other side often points to FracFocus and that therefore we don't need any additional disclosure requirements because FracFocus has everything under control. The handouts that you're getting right now are printout from FracFocus; that is an industry-funded Web site that supposedly offers disclosure for citizens and landowners and public health officials. For the state of Nebraska, they have only about eight wells on their site. And when you pull up a sample disclosure report, which you have in your hands, it's very confusing. There's no information on what really the health levels of certain chemicals should be; there's no description of what those chemicals could do to your health or your kids' health, or to your cattle health. And so we think that full MSDS sheet...material, safety, and data information should be provided in the disclosure process, so not only individuals: moms and dads, but also public health officials, and farmers and ranchers have that

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information completely disclosed. There's often a lot of loopholes that happen when folks say that they're disclosing information. But it often then gets put in the form like you see in front of you today which is actually not very helpful to the public. So I want to thank you for spending as much time as you have on studying this issue. And I...we look forward to the bill passing. [LB1082]

SENATOR SCHILZ: Thank you. Any questions? Senator Kolowski. [LB1082]

SENATOR KOLOWSKI: Thank you very much, Mr. Chairman. Ms. Kleeb, on the listing of items that might be placed down in the wells, are they required to every single item that they're putting down there is supposed to be listed and are we getting all that information? [LB1082]

JANE KLEEB: Right now we don't have very strong disclosure laws at all. I'm sure the Oil and Gas Commission would probably try to say otherwise, but, no, citizens do not have a complete listing of what's in there. And in fact, truckload to truckload could be very different of what's actually in...what they're injecting into the well. And that's, obviously, a major concern. And so there's a lot of other things that have to happen like baseline water testing and soil testing has to happen around these wells before we start to inject all of this out-of-state waste. And I just don't think our state has done the proper safety precautions for all of this. [LB1082]

SENATOR KOLOWSKI: Do you know what a regular contract would be for someone who had the hole in the ground and would say, yes, bring your waste here and I'll take it because we have room? [LB1082]

JANE KLEEB: We understand that there are some individuals that have signed contracts on a private level. And, obviously, that is their land; but it's also their neighbor's water. And so when these chemicals get into the groundwater and get into our drinking water supplies, that's where the level of public health comes into play. [LB1082]

SENATOR KOLOWSKI: Thank you. [LB1082]

SENATOR SCHILZ: Thank you, Senator Kolowski. Any...Senator Friesen. [LB1082]

SENATOR FRIESEN: Thank you, Chairman Schilz. Ms. Kleeb, you just...you made a statement that we don't have baseline testing of the water? [LB1082]

JANE KLEEB: We're saying that for these new injection wells that are happening in our state of fracking waste...out-of-state fracking waste, that we think before that starts to happen...we

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already know that it's happening, but before any new ones are happening that there should be a baseline water test done around that area so we know, essentially, what the water is before. Because what we've seen oil and gas companies do is when water pollution is found, they then say it was there long before them and it's not their fault. [LB1082]

SENATOR FRIESEN: Well if I remember correctly during testimony we had, I thought somebody...they indicated to us that there was baseline testing and that any water testing that was asked for afterwards was compared to that baseline. [LB1082]

JANE KLEEB: The folks that we've talked to in the area that's being discussed of where these wells would happen say that that is not the case. So if that's happening, it should...we should be given those baseline tests, because we have not been given that as the public. [LB1082]

SENATOR FRIESEN: Okay, thank you. [LB1082]

SENATOR SCHILZ: Thank you, Senator Friesen. Any other questions? Seeing none, thank you, Ms. Kleeb, appreciate it. [LB1082]

JANE KLEEB: Thank you. [LB1082]

SENATOR SCHILZ: Next proponent. [LB1082]

ELLEN HANSEN: (Exhibit 6) Good afternoon, gentlemen, members of the committee, Senator Schilz, counsel, and pages. My name is Ellen Hansen, known in the community as Elle Hansen, E-l-l-e-n, or for other purposes, E-l-l-e, H-a-n-s-e-n. I live at 1326 Washington Street, right here in fabulous Lincoln, Nebraska. Happy to be with you today. I come today in support of this bill. As you'll see, there is some pictures coming around. And I will pose the rhetorical question: Senator Hughes, would you like your grandchildren to be drinking that? Would you like your grandchildren to be drinking that? Any of your children? I know Senator Lindstrom has children at home. This is one of the many consequences of our actions we will face if we fail to take responsibility today here and now. As an indigenous person, I am of the Choctaw persuasion from Oklahoma, I will let you know that my people's homes are being destroyed because of fracking earthquakes. They don't have much. We natives don't need much. But the things that we do have...that we do have left that haven't been pillaged through the years of historical intergenerational drama are being destroyed because people there, that are in positions like you are, are failing to do what they need to do to protect the people. I'm going to let the gravity of that sink in for a second. We have a responsibility to be good neighbors. I'd like to...did any of you guys watch Mister Rogers growing up, Mister Rogers' Neighborhood? And he talks about

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how we have a responsibility to be good neighbors to one another. This is not something that...if I...if the roles were reversed and I were sitting there today, how would you feel knowing that your loved ones today and in the future are being placed at risk if we don't take this, this action. And it's not an action that's going to fix everything. It's damage control at this point. We know this. We know that...if we take an honest look at things, we don't know that all the causes of the things that are happening because of our need...our demand for oil, we don't know that all the causes are anthropogenic, but we don't know that they aren't either. We don't know that they aren't human-caused. There is a proverb in my culture that I'd like to share with you today and that is that I have a responsibility for seven generations beyond me. And I'm going to tell you that again--I have a responsibility to seven generations beyond me and my actions affect seven generations beyond me. Whether or not I recycle this today will affect seven generations beyond me. The small things...and now you have responsibility, each of you, for something really big here. I encourage you to make the right decision and vote to advance this bill. Thank you.  
[LB1082]

SENATOR SCHILZ: Thank you, ma'am. Any questions? Seeing none, thank you for your testimony. [LB1082]

ELLEN HANSEN: Thank you. [LB1082]

SENATOR SCHILZ: Further proponents? Good afternoon. [LB1082]

JANECE MOLLHOFF: (Exhibit 7) Good afternoon, Senator Schilz and committee. My name is Janece Mollhoff, J-a-n-e-c-e M-o-l-l-h-o-f-f for the record. And I'm testifying today on behalf of Mary Pipher, and her name is M-a-r-y P-i-p-h-e-r. She was not able to be here today, but cares deeply about this issue and wanted me to read this letter to you for the record. Dear Committee Members:...and when I say "I" in this letter, I'm speaking of Mary and not myself...I'm a psychologist and the author of a recent book called The Green Boat about our efforts to stop the Keystone XL Pipeline in Nebraska. Because of my work on that project and my continuing advocacy for the protection of our aquifer and Nebraska's water, I have some familiarity with the Nebraska Oil and Gas Conservation Commission. Because of my career as a psychologist, I have some knowledge of conflict of interest, problems with dual roles, and the need for clear boundaries. We therapists cannot wear two hats at the same time. We cannot be friends with our clients or therapists for our friends. Ethical psychologists do not do evaluations for courts or other systems that require certain results for payment. We attempt to structure our work so that it is temptation free. The Nebraska Oil and Gas Commission is set up for dual roles and conflict of interest. It cannot both regulate and promote. Common sense tells us that it cannot both provide oversight for the citizens of our state and encourage and aid individual and corporate oil and gas businesses. This commission has intrinsic systemic problems that lead us to problematic

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outcomes. When a commission has this kind of mixed up mission, the people of Nebraska suffer. For example, what does depositing wastewater from out of state under our aquifer do for the citizens of Nebraska? It may help the natural gas company, but it does not help us. I am not sure why we even need an agency to promote fossil fuels in our state. Why are we subsidizing international corporations by promoting and facilitating their work profits and lack of regulations in our state? Why don't we have an agency to phase out fossil fuels and promote clean energy? However, I do know for sure that we need an agency to regulate and police pipelines and wastewater well injections in our state. In my five-year history with the Oil and Gas Commission, I witnessed lots of shenanigans. Meetings that were of great importance to citizens have been closed or greatly restricted by small venues and last minute announcements. Commissioners have tried to silence scientists and stakeholders who were not connected to oil and gas interests. This has greatly limited the ability of citizens to speak on behalf of our state. I do not believe the people on the Oil and Gas Commission are any better or worse than the rest of us. But they are working within a system that is primed for confusion and corruption. We need to change the mission and structure of this commission as you have proposed. As a psychologist, I know that competent and ethical behavior is most likely to occur when dual roles and conflicts of interest are minimal. When people have clear boundaries and specific tasks that are within their capacity to compete, they can work in a way that is good for everyone. So I advise this committee to advance LB1082 and make our state a healthier, safer place. [LB1082]

SENATOR SCHILZ: Thank you. Any questions? Seeing none, thank you for your testimony. Further proponents? [LB1082]

DONNA ROLLER: I'm sorry, I came late and didn't sign a green sheet. Will you still hear my testimony? [LB1082]

SENATOR SCHILZ: Well, that's fine, you can sit down; just make sure that you get it to her right after you get done, please. [LB1082]

DONNA ROLLER: Okay. Thank you. I'm Donna Roller, my maiden name was Friesen. I owned a farm in York County. [LB1082]

SENATOR SCHILZ: Can you spell your first and last name? [LB1082]

DONNA ROLLER: R-o-l-l-e-r, my first name is Donna, D-o-n-n-a. [LB1082]

SENATOR SCHILZ: Thank you. [LB1082]



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DONNA ROLLER: (Exhibit 8) I just sold my farm because it has no water on its center pivot because it's that much lower since 1954. There were other reasons to selling it, but I found that late in the game and it was quite shocking. I have provided a written testimony regards to the two bills on fracking and those are on-line. But I wanted to come and say something else today that I don't think is being addressed by these two bills and are critical to your consideration. The importance of the Ogallala Aquifer in Nebraska is very important to Nebraska. Our most life-giving resource, water, is forgotten when big oil and other corporations enter the state offering large amounts of money to get legislation in their favor. What should be first is the people of this state and the economy they produce around agriculture. Water and only water should be the primary consideration for these types of laws. The fracking and oil industry threaten our very existence. I have copies of just one page on the Web page for you to look up and read. It's about...I just entered the words "water crisis"... "world water crisis Ogallala Aquifer." I have read all these articles and this is only a small sampling of the amount of information available. All of them mention the Ogallala Aquifer when they refer to worldwide aquifers and it's a critical part of our water supply. I have one graph showing the projected depletion of the aquifer to 2150. It shows that most of it will be gone except for Nebraska because we have the greatest share of the aquifer. My point is this: Why are we doing this injection wells and putting our aquifer at risk? While I support these bills, it does not go far enough to protect our water. And I'm thankful for every glass of fresh water I drink. And we have already depleted the aquifer and I'm...I think this is a very serious situation that we need to look further into. And I just had a printed page that I gave you of highlights from these articles. And I don't think I have anything more to say. [LB1082]

SENATOR SCHILZ: (Exhibits 9, 10, 11, 12) Thank you, ma'am. Any questions? Seeing none, thank you for your testimony. Further proponents? Proponents? Okay, we have a couple of letters, if I can find my sheet somewhere. Hold on...there it is. Okay. We have a letter from Dean Edson from the Nebraska Association of Resource Districts in support; a letter from Brandon Grimm and David Corbin from the Public Health Association of Nebraska; John Berge from the North Platte NRD; and Amy Schaffer...of all seven letters in support. At this time we will move to opposition to LB1082. Good afternoon, sir. [LB1082]

CHRIS PETERSON: Mr. Chairman, members of the committee, my name is Chris Peterson, C-h-r-i-s P-e-t-e-r-s-o-n, and I am testifying this afternoon on behalf of the Nebraska Petroleum Producers Association, or NPPA. We are testifying in opposition to LB1082. First, let me say that NPPA includes 75 oil and gas producers; royal interest owners; suppliers; and landowners whose interests stretch from Richardson County in southeast Nebraska to Kimball County in far western Nebraska. Before I address LB1082, I would like to make a general comment about this committee and its work over the last year. We want to thank the Natural Resources Committee for its review of the Nebraska Oil and Gas Commission...Conservation Commission. And also oil and gas production and practices in our state. I think that it's been an important opportunity to

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shed light on an industry that often at times goes without receiving a lot of notice and attention in our state. And that's important because, first of all, our association's members are proud of the industry that they're involved in. They're proud of the industry's contributions to our state and local economy. And proud of the industry's operating practices which provide protections for the environment, which I think was fleshed out in the interim study hearings. We're also proud of the fact that there's really been an absence of any evidence of groundwater contamination in the decades that Nebraska, as a state, has been effectively producing oil and gas. And finally, I would mention that this...over the last year, as the committee has looked at the industry, one thing that we've attempted to point out, it maybe hasn't received quite as much attention as it might warrant, is that this industry pays millions of dollars annually that goes directly into the K-12 education state aid formula, TEEOSA. We also fund a portion of the cost of running the State Energy Office. And our industry funds the NOGCC. And then finally, our industry does pay a significant amount of local property taxes in rural counties, which in their absence would certainly negatively impact those local entities, whether they be county government, NRDs, school districts. And then would impact the other individuals, the other entities in those areas of the state that pay property taxes if the oil and gas producers were not bearing some of that burden. We do believe that the oil and gas industry in Nebraska is well regulated and we believe that we've heard evidence to that fact over the last interim. And I think one of the other issues that we want to make sure that is on the table as we look at whether or not to make changes in that regulatory structure is other evidence of economic benefits. And I think that...I've mentioned in previous testimony that the Western Energy Alliance conducted a study in 2014 that indicated that the economic benefits of oil and gas production in Nebraska, specifically, even though Nebraska is a relatively small state in terms of oil and gas production nationally, was measured at more than 2,700 direct supplier and induced jobs right here in Nebraska and \$592 million in wages from those direct supplier and induced jobs. I want to close my testimony by indicating that other members of our organization...or members of our organization will be testifying and because of their practical experience in the industry, they'll be more capable than I at being able to answer your questions about how they operate and how LB1082 would impact those operations. But let me just wrap up by saying again that we believe that this bill is not necessary as it's been introduced. And the industry has been well-regulated and provides strong economic benefits to the state of Nebraska and to local economies. Mr. Chairman, thank you; I'd be happy to try to answer questions. [LB1082]

SENATOR SCHILZ: Okay, thank you, Mr. Peterson. Any questions for Mr. Peterson? Seeing none, thank you for your testimony, appreciate it. [LB1082]

CHRIS PETERSON: Okay, thank you. [LB1082]

SENATOR SCHILZ: Further opponents. [LB1082]

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LEON RODAK: (Exhibit 13) Good afternoon, members of the committee. My name is Leon Rodak, L-e-o-n R-o-d-a-k. I'm the vice president of Murfin Drilling Company, Wichita, Kansas. And I'm a petroleum engineer working 35 years in Kansas, Nebraska, Oklahoma, and Texas. Murfin is the fifth largest oil producer in Nebraska, and the second largest oil producer in Kansas. We operate 1,100 oil and gas wells, and 215 injection and disposal wells. Murfin opposes LB1082 as unnecessary and burdensome to the oil and gas industry. Talking about specific sections: Section 1 strikes out that it is "in the public interest to foster, encourage and to promote the development, production, and utilization of natural resources of oil and gas in the state in such a manner as will prevent waste" and that's all it says--promote the development to prevent waste. I've never heard any testimony in any of the hearings where any promoting to prevent waste has caused any harm to the environment in the state of Nebraska. Section 4 requires annual fluid sampling and analysis of water injected into all injection and disposal wells. This is redundant, in that the Nebraska Oil and Gas Conservation Commission requires an initial analysis and the makeup of the water changes very little over time. It would be more effective to have the right to spot check the water at any time, and the Nebraska Oil and Gas Commission already has that right. Section 5 requires the operator to annually submit evidence that any required bonds are current and in full force and effect. This is unnecessary, as the bond is permanently in place with the bonding company until it's released by the commission. Section 17 tells the state investment officer that investment money in the Oil and Gas Conservation Trust Fund is to be invested per the Nebraska State Funds Investment Act, LB1069. LB1069 moves investments from fossil fuel extracting/burning companies to clean energy companies. This may cause the state to miss out on a once in a generation rebound in oil investments over the next few years, but that's off topic. What I find interesting is that Section 17 ties a bill that has unnecessary regulations on the oil industry to a bill with increased investment in clean energy. I support the development of alternative energy. It is inevitable, as oil is a depleting natural resource. We're going to run out of it some day. However, I don't wish to see water pollution scare tactics over-regulate the oil industry. And I say "scare tactics" as the Natural Resources Committee's own interim study has found no smoking guns of oil pollution or regulatory lapses. In the past few years, the oil industry has found vast quantities of oil. This has reduced the energy cost burden to all. If the Legislature wants to take the lead in developing alternative clean energy programs, now is the time and low energy prices are the bridge to that future. Over regulation of the oil industry chips away at the foundation of that bridge and leads to energy shortages and price shocks. And I thank you for your time. [LB1082]

SENATOR SCHILZ: Thank you, sir; appreciate it. Senator Johnson. [LB1082]

SENATOR JOHNSON: Thank you, Senator Schilz. Thank you for coming in. As a comparison, how are things regulated in Kansas that would be different if we enacted this legislation? What happens in Kansas for them to be satisfied or not have issues like we have presented with here? [LB1082]

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LEON RODAK: Kansas regulations closely reflect the current Nebraska oil and gas regulations. And so much of this that's in here is not in the Kansas regulations. [LB1082]

SENATOR JOHNSON: Okay. So this partly opposition to more regulation then would be part of your position...not needed, as you say. [LB1082]

LEON RODAK: Yes. Over regulation because there's been no demonstrated pollution or threat. [LB1082]

SENATOR JOHNSON: Okay. One other question, if I can. On the first page, you talked about the Nebraska Oil and Gas already has the right to check...spot check water. [LB1082]

LEON RODAK: Yes. [LB1082]

SENATOR JOHNSON: Do they exercise that right now? [LB1082]

LEON RODAK: I cannot answer that question. It probably is better directed to Bill Sydow. [LB1082]

SENATOR JOHNSON: Okay. That's all I have. Thank you. [LB1082]

SENATOR SCHILZ: Thank you, Senator Johnson. Senator Friesen. [LB1082]

SENATOR FRIESEN: Thank you, Chairman Schilz. Mr. Rodak, do you...when you want to start a new well or something, are you required to do the baseline testing on the water aquifer? [LB1082]

LEON RODAK: We are. The regulations specify that we provide samples from at least two fresh-water wells. And I believe it's within a mile of the proposed injection area (inaudible). [LB1082]

SENATOR FRIESEN: And is that turned over to the Nebraska Oil and Gas Commission? [LB1082]

LEON RODAK: It is, yes; part of the public record of the application. [LB1082]

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SENATOR FRIESEN: Okay, thank you. [LB1082]

SENATOR SCHILZ: Thank you, Senator Friesen. Any other questions? Senator Schnoor. [LB1082]

SENATOR SCHNOOR: You're from Wichita, so I'm presuming you've done a lot of oil drilling in Kansas. Are you familiar...or do you dispose of any fracking wastewater in Kansas? Are you...is that part of your process with your industry? [LB1082]

LEON RODAK: We do not operate any commercial disposal wells. However, some of our own operated disposal wells do dispose of waste when we frack a well. However, we very seldom frack a well; it's not the typical process in Kansas where we operate. [LB1082]

SENATOR SCHNOOR: Okay. The question has always been that...or the concern has always been that we're going to contaminate the aquifer. Do you know, in Kansas or Nebraska, has any drinking water ever been contaminated because of fracking? Not necessarily fracking, but the disposal of the fracking waste, yes. [LB1082]

LEON RODAK: To my knowledge, no, there hasn't been. [LB1082]

SENATOR SCHNOOR: Okay. [LB1082]

LEON RODAK: There's been a lot of comments on, you know, would you drink this? Would you want to drink this? And, you know, there are lots of industrial processes that go on throughout the country and all sorts of industries, and they all have waste streams that no one wants to drink. What counts is that we effectively dispose of them and we have processes in place with the casing and the pressure testing to make sure that the casing and the tubing and the layers of protection don't fail. [LB1082]

SENATOR SCHNOOR: Okay. Thank you, sir. [LB1082]

SENATOR SCHILZ: Thank you, Senator Schnoor. Further questions? Seeing none, thank you for your testimony. [LB1082]

LEON RODAK: Thank you. [LB1082]

SENATOR SCHILZ: Further opposition? Good afternoon, sir. [LB1082]

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DANA WREATH: (Exhibit 14) Good afternoon. My name is Dana Wreath, D-a-n-a W-r-e-a-t-h, and I have a handout. And I work for Berexco LLC based in Wichita. We're the largest producer of oil in Nebraska and we also operate in eight states. And I think we're the third-largest producer of oil in Kansas, after our friends at Murfin. And I've testified before this committee before, and it strikes me that some of these issues keep coming back around. And I think sometimes we sort of want to conflate fracking work with issues that don't always directly involve it. And I would...I'd like to say, Senator Schilz, we...I mean, I appreciate what's trying to be done here in LB1082. I think there's a good intent. The practical issue is that some of this specific language is difficult or is already covered by existing rules. And I'd like to go through some of those specific examples. But just hearing some of the prior testimony, I think it needs to be said that we don't have an out-of-control injection and production oil and gas operation in this state. And the surest proof is that there are no smoking guns. It's been said before, but it's fundamental. We've had oil and gas production in this state for probably 50 to 60 years. We do have a robust rule-making process. If we need to amend the rules, it's been done before. We have a good Oil and Gas Commission. We operate in a lot of different states. I personally have direct involvement with oil and gas regulators in a number of different states. And I will simply tell you that Nebraska has a very well-run Oil and Gas Commission. They pay attention. They know what's going on. Things are not out of control here. And it's unfortunate that it just sort of keeps coming back up. And one thing I also want to mention is...I think I first testified before this commission in 2013. And it's worth thinking about what's happened in the last three years which is--darn little. The oil and gas production in this state has been reasonably flat. There have not been any significant environmental...actual environmental damages, that I'm aware of. We're the largest producer in the state. In three years we haven't fracked a single well since I first testified before this commission, not one. And that's because fracking is not really particularly appropriate for the geology in this state. Further, the commercial disposal business is effectively wiped out...wiped out. There is no market for commercial disposal in western Nebraska. It's unfortunate that that particular well was ever even brought up because there is, in fact, no market. And I will repeat my call in public that Berexco itself operates a water-injection project right near...just south of Kimball in Colorado where we are looking for water to be brought into us where we are attempting to sweep out oil in the underground reservoir over to the oil wells. It's called a water flood, it's a common project. We're looking for water. We'll take water for free. I'll say it again, for free in southwest Nebraska. And right now we can't even get anybody to haul us water, let alone pay us to take it. So that business simply does not exist. So moving ahead very quickly, and I don't want to be redundant with what Mr. Rodak said, but 57-901 on page 2 is really regarding the business of eliminating the words "foster, encourage, and promote." And the reality is, the Oil and Gas Commission does not call us up. They don't call me up and say, you know, Dana, you really ought to go drill in the southwest corridor of section 23. They're not doing that sort of thing. But what they do, and this is important, is they do provide orderly, competent regulation, and in that manner, they may promote the development...the development of oil and gas, but not necessarily the industry. And there's a big difference there. And that's why

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I don't think it's really necessary to make that change. Moving on, regarding 57-905(3)(j) and (k) which regards periodic water sampling and certification of water transporters, it's important to know, as Mr. Rodak said, not only is baseline fresh water testing required before you convert a well, you also have to provide samples of the water to be injected. And then just very quickly regarding financial assurance; bonds have to be maintained and any notice of any change in any bonding has to be provided to the commission. And on the very last page of my testimony, is actually a letter, here, from the state of Nebraska Oil and Gas Commission to Berexco regarding a change in our bond which simply documents that any time there is a change in the amount, anything going on with the bond, the Oil and Gas Commission is notified. And so while I appreciate what's tried to be done in LB1082, I really believe, if you look through what I've provided and researched the rules, you'll see that these issues are effectively covered in the existing rules and regulations. [LB1082]

SENATOR SCHILZ: Thank you, sir. Any questions? Senator Hughes. [LB1082]

SENATOR HUGHES: Thank you, Mr. Chairman. Thank you for coming in today. I see that you operate in numerous states. Are the regulations that are in Nebraska, specifically, for promotion, are they a lot different in other states? [LB1082]

DANA WREATH: Well, I don't know that any state has a state regulatory agency that is attempting to tell oil and gas operators where they should drill wells. However, most states have within their oil and gas regulatory environment some indication that they want to make sure that oil and gas development is done properly, prudently, and is encouraged in the state because oil and gas development is, ultimately, creating wealth in the community. It's primary production jobs. It's not service industry jobs that are...that require other money, it's direct investment in the community. And so I would...it's a long-winded way of saying that while other oil and gas regulatory agencies may not have the word "promote" in their mission statement, they all have an underlying theme of encouraging development of the oil and gas resources of that state. [LB1082]

SENATOR HUGHES: Okay, thank you. [LB1082]

SENATOR SCHILZ: Thank you, Senator Hughes. Other questions? Senator Schnoor. [LB1082]

SENATOR SCHNOOR: Mr. Wreath, I'll ask you the same question I asked Mr. Rodak. Do you know of any contamination of drinking water that has ever happened because of disposal of fracking water? [LB1082]

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DANA WREATH: Not in my experience. And I'd like to elaborate why. As Ms. Kleeb said, she was asserting that chemicals were being put into the groundwater. But that's in fact not true. The construction of wells is such that there's multiple layers of steel and cement between the water that's being injected and the groundwater. And so, and states also have a regulatory format where they require periodic tests of the mechanical integrity of the wells. And so what's really happening is water from fracked wells...or just regular oil and gas wells is disposed deep underground through multiple layers of protection and that's why you don't have groundwater protection...I misspoke, groundwater contamination. [LB1082]

SENATOR SCHNOOR: Okay. Thank you, sir. [LB1082]

SENATOR SCHILZ: Any other questions? Seeing none, thank you very much for your testimony. [LB1082]

DANA WREATH: Thank you. [LB1082]

SENATOR SCHILZ: Further opposition? Good afternoon and welcome. [LB1082]

JODI KEELER: (Exhibit 15) Good afternoon. Chairman and committee members, I'm Jodi Keeler, and my name is J-o-d-i K-e-e-l-e-r. And I've worked in the industry for just about 32 years and I do a variety of things from regulatory compliance, environmental compliance, and landowner relations. I've spoken with you before. I did serve on the committee to review and rewrite the rules and regulations of the Oil and Gas Commission. And I'm sure you're aware that there was much thought, many conversations, and we believe that this encompassed the evolving activity of our industry. And we do think that there were some changes that needed to be made. And we believe that FracFocus is the way that disclosure should occur. We don't frack very many wells in Nebraska, so there isn't much information out there for wells that have been fracked in Nebraska. And we did increase the bonding requirements; we felt that was necessary. And as far as I know, we didn't hear one operator complain about the increase. People are prudent; operators are prudent. And we want to do the right thing in our state. I would like to talk to you also about the promotion language. I believe that Mr. Wreath said it well--the commission doesn't promote our industry. They promote the conservation development of our natural resources. And I think we have to keep that in mind and allow them to do that. I mean, that's really part of their job. They're a well-run industry; we've had the reviews. Their peers have complimented them. They've received awards. They're just...they really are an outstanding agency. And while I also appreciate the attempt at LB1082, I just feel like with such a technical industry, that maybe industry people: engineers, geologists, hydrologists, need to, maybe, be included in some of the terminology so that the result of the bill actually is what's intended. Because I had a hard time reviewing LB1082 and actually following what was trying to be said and what was trying to be



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accomplished. And so I think that there maybe is some room to have some conversation about that and try to have a better understanding of what is the actual intent. So I really don't have anything else to say. I've provided my testimony and I appreciate the opportunity today. Thank you for allowing me to speak and I'm happy to answer any questions if you have any. [LB1082]

SENATOR SCHILZ: Thank you, Ms. Keeler. Any questions? So, I have one question for you, and we've heard about the promotion part and everything else and if you don't have the answer to this I understand. But as you say, or let me ask it this way: if it is changed in there that promotion is no longer part of what goes on, how in your mind will that change what the Oil and Gas Commission does day to day in the regulation and the helping of the industry maintain the environment and everything else? [LB1082]

JODI KEELER: Well, you know, I'm not sure I'm prepared to have that conversation here on the witness stand. I just feel like with the commission that...it's kind of like Major League Baseball, the commissioner of Major League Baseball, how can a major...you know, the commissioner of Major League Baseball not promote baseball? It's...how can our Oil and Gas Commission not promote the development of oil and gas in the state and that business? And so in my mind, that's how I see it. [LB1082]

SENATOR SCHILZ: So do you discern...and I don't want to take you too far down the rabbit hole, but do you discern a difference between an a private entity like Major League Baseball and a state-run commission like the Oil and Gas Commission and their...I mean, should they be run in the same fashion? [LB1082]

JODI KEELER: Well, no; I mean, that's not what I'm saying. I'm just saying that when you have a regulatory body or a leader and their goal is to oversee what's happening beneath them, that you need to give them the leeway to do what they need to do to actually promote the development of whatever it is they're overseeing. And so that's why I believe that it's important for that language to be left in the statute the way it's written because we don't need to develop another organization to do that. I mean, we have the NPPA now who is strong and active, has members. They will, you know, see about the promotion and marketing of the industry, not necessarily the promotion of the natural resource. [LB1082]

SENATOR SCHILZ: Right. Do you see how some people might see the word "promotion" in there and get the wrong idea of what the job of the NOGCC is? [LB1082]

JODI KEELER: I understand about the word. But I think if you read the phrase, then you can appreciate what it's trying to say. [LB1082]

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SENATOR SCHILZ: I understand. [LB1082]

JODI KEELER: The way that it is currently written, if you read the entire phrase, you can get the whole compass rather than just reading a single word. [LB1082]

SENATOR SCHILZ: Sure. Thank you. Any other questions? [LB1082]

JODI KEELER: Thank you. [LB1082]

SENATOR SCHILZ: Seeing none, thank you for your testimony. Further opposition? Opposition? Good afternoon, sir. [LB1082]

MIKE CARR: (Exhibit 16) Good afternoon. My name is Mike Carr, M-i-k-e C-a-r-r. I moved to McCook, Nebraska, in 1961 and have been associated with this Oil and Gas Commission 50-some years, including some time when I was on the commission. And we're lucky we have them, I'll say that. I'd like to make you aware of some work by the Kansas Independent Oil and Gas Association titled "Hydraulic Fracturing and Drinking Water Contamination." This was January of 2016 and I received this yesterday. And I think you'll find it interesting. I'll go through here; I have some items that are more important than others. I'll start off with Drollette et al., "Proceedings of the National Academy of Sciences 2015"--this study found no indication of contamination from the fracking process itself. As the researchers explained, we found no evidence for direct communication with shallow drinking water wells due to upward migration from shale horizons. Here's one from Syracuse University, Environmental Science and Technology: the peer-reviewed study by researchers at Syracuse looked at thousands of random samples baseline from water wells throughout Pennsylvania and conclude there are no significant correlation between dissolved methane concentration in groundwater and proximate to nearby oil and gas wells. There's the "Massachusetts Institute of Technology Energy Initiative", 2010: Based on over 60 years of practical application and the lack of evidence to the contrary, there's nothing to indicate that when coupled with appropriate well construction the practice of hydraulic fracturing and deep formations endangers groundwater. There's also lack of demonstrated evidence that hydraulic fracturing conducted many shallower formations presents a substantial risk of endangerment to groundwater. Ken Salazar, former Secretary of U.S. Department of Interior, 2014: We know that from everything we've seen, there's not a single case where hydraulic fracturing has created environmental problem for anyone. We need to make sure that story is told. Steven Chu, former Secretary of Energy: This is something you can do in a safe way. Dr. Stephen Holditch, Department of Petroleum Engineering, Texas A&M University: I've been working in hydraulic fracturing for 40-plus years and there's absolutely no evidence hydraulic fractures can grow from miles below the surface to fresh water aquifers. We've got a number of other ones. Dr. Mark Zoback, Professor of Geophysics, Stanford University:

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Fracturing fluids have not contaminated any water supply and with that much distance to an aquifer, it is very unlikely they could. Carol Browner, former EPA Administrator, 1995: There is no evidence that the hydraulic fracturing at issue has resulted in any contamination or engagement (sic-endangerment) of underground sources of drinking water. In summary, a consensus of regulatory and scientific opinion contradicts claims that hydraulic fracturing has contaminated or poses a serious risk of contaminated underground drinking supply. Thank you very much. [LB1082]

SENATOR SCHILZ: Thank you, sir. Any questions? Seeing none, thank you very much for your testimony, appreciate it. Further opposition? Good afternoon, sir, welcome back. [LB1082]

DAVE HAACK: Thank you. Thank you for the opportunity to speak with you. My name is Dave Haack, D-a-v-e H-a-a-c-k. I'm president of Z&S Construction Company. We operate a commercial disposal well in western Nebraska. We also work in the industry building locations for wells, setting up equipment, hauling gravel, produced water, so that's our background. Z&S Construction has been in business since 1963. And I'm here to oppose this. I don't know if you know the history of Nebraska, the first oil production. The Nebraska Legislature offered \$15,000 to the first company that found an oil producer that would make 50 barrels a day for 60 days. They found one down in Falls City, down in Richardson County. And the oil business has been in Nebraska ever since. I feel like we're putting several regulations that aren't needed into place. As they testified earlier, there's no...hasn't been any evidence in the past 50 or 60 years of any water contamination. We have regulations in place that had saw to that, but that hasn't happened. And we're...it's like you're trying to fix a problem that isn't there. More regulations isn't going to fix something where there isn't a problem there to start with. I feel like by imposing more regulations, that you're trying to push...now we're trying to get the oil and gas business pushed out of Nebraska. We've paid taxes, we've paid property tax, real estate, conservation, severance taxes, fuel tax, FET tax. Our company has donated to schools, to the city, the county. And I think...you know, it's getting carried too far. We're pushing out the industry and now while the oil prices are down is not the time to kick us some more. We've been the whipping boy for several years, the oil and gas industry. Fracking has been around for 50 or 60 years; I don't know why all of a sudden everybody is pounding on fracking. Probably everybody sitting here right now would not be here if there wasn't fracking that was developed back in the 1950s. It's important to our industry. And as far as disposal wells go, we've been over this before, if you have an oil well, you've got water that you've got to get rid of, you've got to have a way to get rid of if you want oil production in the state. Disposal wells are one of the ways to do it. If there's not...if the TDS is low enough, we can do evaporation but that's not always possible. The commercial wells are there for water that has high TDS and the best place to put it is back in the ground where it came from over a mile below. There are safety protections there with the casing that were tested for any groundwater contamination, the state comes and does the MIT, mechanical integrity test, so before there could be any contamination of water, we would find it before it got to that point.

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Like they said before, they've got several layers of pipe and cement in place, so if there is an integrity problem, you'll know it before it gets into the water. I guess that's all I have to say. I just...you know, or just be an over-regulated...everybody wants to regulate, regulate, regulate. I spend my time on Tier II reports, EPA reports, I've got OSHA reports. I mean, regulation, it's just killing the small business. I'm to the point now where I'm about ready to say--the hell with it; I'm tired of it. That's it. Do you have any questions? [LB1082]

SENATOR SCHILZ: Thank you. Thank you, Mr. Haack. Senator Johnson. [LB1082]

SENATOR JOHNSON: Thank you, Senator Schilz. A couple of other testifiers have talked about the economics and what the value it brings to Nebraska. And I think we all understand the value of the oil industry in the past. And, yeah, oil prices right now are not favorable. I think from our standpoint, we have to make sure that what we're doing is safe and continues to be safe. Technology changed and hopefully we're keeping up with that, so...with testing and things like that. The question I asked earlier and I don't know if you can answer it or not, with periodic testing in the water is one of the stipulations in here. And right now, Oil and Gas Commission has that right. [LB1082]

DAVE HAACK: Yes. [LB1082]

SENATOR JOHNSON: Do you...familiarity with how often wells that you have, have been checked based on that regulation? [LB1082]

DAVE HAACK: Well, you give them a sample of what you're going to put down the well when you apply for the permit. As far as the water, you have to imagine down below it's like a big giant ocean. In fact, some of the core samples they bring up has sea shells and everything's in there. So it's like a giant ocean, the saltwater down below. You know, you take one sample and ten years from now you take another sample and you'll get the same results. It's just like if you went out in the Pacific Ocean and got a sample of water there; go back ten years later, take another sample. You know, how much is that water going to change? [LB1082]

SENATOR JOHNSON: So have they checked the water that's put back down into a well? [LB1082]

DAVE HAACK: Yeah, they check water. There's no specific requirement on that as far as how often they check it. But why keep checking it when you put the same thing...you know, the water that you pull up out of the ground back into the ground? It's not going to change that much. [LB1082]

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SENATOR JOHNSON: How big of a hindrance is it for them or for you to have an oil...water go around and checked at least once a year? [LB1082]

DAVE HAACK: It's not a hindrance. It costs about \$600 every time that you test. It takes about two weeks to test it, somewhere in that neighborhood. [LB1082]

SENATOR JOHNSON: It costs you or costs the state? [LB1082]

DAVE HAACK: Me personally. [LB1082]

SENATOR JOHNSON: Okay. [LB1082]

DAVE HAACK: And then by putting more onerous regulations on, it's going to jack the price up as far as what I had to charge people to dispose of that. Right now, the way oil prices are, my disposal well is pretty well dried up. I maybe take two or three loads a month down there. [LB1082]

SENATOR JOHNSON: Thank you. [LB1082]

DAVE HAACK: The one up in Sioux County, I doubt if that ever gets...ever gets completed. The oil company spent \$65 million leasing ground up there and those people up there shoved us out. I mean, it got down to the point with the rumor and innuendos going around that there was a guy in Mitchell, Nebraska, they told him to leave his business; they didn't want him doing business there. There was an older couple that came up to him and said--you guys are going to hell. I don't know how they decide that. [LB1082]

SENATOR JOHNSON: Thank you. [LB1082]

SENATOR SCHILZ: Thank you, Senator Johnson. Any other questions. Senator Kolowski. [LB1082]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Mr. Haack, just a couple of questions. To what level of depth do you usually go as far as hitting oil? Is there a commonality as far as the western Nebraska area you're working in? [LB1082]

DAVE HAACK: Yeah. In the area we're in, probably about 6,000...6,600. [LB1082]

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SENATOR KOLOWSKI: Okay. [LB1082]

DAVE HAACK: The disposal well I operate was the very first horizontal well drilled in the state of Nebraska. And the water that we dispose of is...are around 7,600 feet deep. [LB1082]

SENATOR KOLOWSKI: Okay. And most disposal wells would be of what depth in different locations? (Inaudible.) [LB1082]

DAVE HAACK: Well, it depends. A lot of...they have a lot of oil wells that they've...are no longer economically produced. They have converted those into disposal wells for water flooding purposes. Or if one would qualify for a commercial well, they would use those for commercial wells. [LB1082]

SENATOR KOLOWSKI: And what levels are those... [LB1082]

DAVE HAACK: And those are, generally, where the oil had been produced. So probably in our area about 6,600. Now if you get further east, then it gets shallower. So like in Cheyenne County, I'm not sure down in McCook, I think they're about 4,400 or somewhere around in that neighborhood, not nearly as deep. [LB1082]

SENATOR KOLOWSKI: And those were traditional wells or are those fracking wells where they do the fracturing and then release the oil and gas? [LB1082]

DAVE HAACK: Well, you know, it's hard to tell which wells have been fracked or not, unless you operate the well. But, you know, there's been several wells fracked in the state of Nebraska over the last 50 years. And in order to determine whether or not, you know, a disposal well could be converted or disposal well you present all the information to the Oil and Gas Commission. They look to see if there's any possibility of contamination; they look to see how deep the surface pipe is on it. There's several things that are reviewed before they would approve a disposal well. [LB1082]

SENATOR KOLOWSKI: And then my next question is: at about what depth do we hit drinking water? [LB1082]

DAVE HAACK: Drinking water in our area, the aquifer, it can get as far as 200 foot deep, but probably...I don't know, there's people that are out there that are more of an expert than I am, but I'm, you know, probably a lot of them...and I can see in this one bill it would eliminate a lot of disposal wells because of the depth that they provided in there. There again, it would eliminate

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the oil and gas business if some of the things that are written in here would go through prohibiting disposal wells. I mean, that's one of the hearts of our industry is disposal wells. We have to get rid of the water somehow, some way. [LB1082]

SENATOR KOLOWSKI: And the quantity of water when you described it, you take a couple of truck loads down sometime. [LB1082]

DAVE HAACK: Our truckloads are transports, we haul, oh, probably 130 barrels of water at a time. [LB1082]

SENATOR KOLOWSKI: Okay. And that would not be open for pouring into an open area and then letting it dry naturally and cleaning that up. [LB1082]

DAVE HAACK: Right. The waters where there are evaporation pits, they have less than 10,000 parts per million. So you can put an evaporation pit where the oil is produced. A lot of those, the wildlife drink out them; it doesn't cause any problems. Weeds grow, you know, in the area. So it's, you know, as long it's lower than 10,000 parts per million, anything above that, then it's reinjected back into the ground. A lot of this fracking water, you know, there's so much fear factor built into that. Governor Hickenlooper, to demonstrate that the frack water, he took a glass of it and drank it himself to demonstrate that that water, that frack water has been diluted. There's an article on that. And have the EPA, they've done a lot of investigation. Some of Obama's own people have studied it for eight years and said...come back and said that fracking has not caused the problems that a lot of the environmentalists are putting out that have caused, you know, that are promoting some of this. [LB1082]

SENATOR KOLOWSKI: But your wells are putting water in at 7,800 feet and... [LB1082]

DAVE HAACK: 7,600. [LB1082]

SENATOR KOLOWSKI: ...7,600...and the aquifer...or where you're hitting water is a couple of hundred feet. [LB1082]

DAVE HAACK: Oh, yeah; right. [LB1082]

SENATOR KOLOWSKI: You've got thousands of feet between. [LB1082]

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DAVE HAACK: Thousands of feet between the fresh water and the...where we're disposing of the water, yes. [LB1082]

SENATOR KOLOWSKI: There's no evidence of any of the leakage or any other breakage? [LB1082]

DAVE HAACK: No. If there ever is...they do a mechanical integrity test on the well. So if there is a problem with the well, you'll find it before it even has a chance to get to the aquifer because there's two other layers of pipe and cement between the tubing itself. So you go in there and you do a pressure test. And if the test...if it doesn't hold, then you know you got a problem somewhere. So you're probably more than likely have a hole in your tubing so you have to pull the tubing out, hydrotest it up to 5,000 or 6,000 pounds. And the ones that don't hold, then you replace those and run it back into the ground. There's a packer down there that keeps the water from going up around the tubing and the casing. [LB1082]

SENATOR KOLOWSKI: Sure. [LB1082]

DAVE HAACK: So there's plenty of protection. [LB1082]

SENATOR KOLOWSKI: I've seen the descriptions of that. What...you described the depth of where you're displacing the water, the used water, how many gallons would a normal production well put into that water well in a year's time? Not just your hundred...couple...different barrels, like (inaudible). [LB1082]

DAVE HAACK: It can vary. Most of the wells in Nebraska are stripper wells. And generally what I've found is that for every barrel of oil you produce, probably there's ten barrels of water. Now that's just a general guideline. But...so if you're producing, you know, ten barrels a day, then you have a hundred barrels of water to get rid of. [LB1082]

SENATOR KOLOWSKI: In a normal well production or a fracking well production? [LB1082]

DAVE HAACK: Well, some wells...like I said, they are fracked, but they turn into a normal well. The reason for the fracking is to prop open the fractures and then the water that comes back after the frack, after they do that, it's diluted and some of that can be hauled off for disposal if they don't have a disposal well on site. [LB1082]

SENATOR KOLOWSKI: Thank you. [LB1082]



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SENATOR SCHILZ: Thank you, Senator Kolowski. Senator Schnoor. [LB1082]

SENATOR SCHNOOR: You said at the beginning of your testimony that you...you...at your particular disposal well, there's very few loads, but I missed that. [LB1082]

DAVE HAACK: Yeah, we've hauled as many as...oh, back in the day when oil prices were up and people could afford to haul the water, probably, oh, 400 to 500 loads a month,... [LB1082]

SENATOR SCHNOOR: Okay. [LB1082]

DAVE HAACK: ...but now we're down to about 2 or 3 a month. [LB1082]

SENATOR SCHNOOR: Okay. Okay, that was my only question. Thank you. [LB1082]

SENATOR SCHILZ: Thank you, Senator Schnoor. Senator McCollister. [LB1082]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. Isn't it true that as a result of pumping crude oil...or oil out the ground, that you get a fair amount of water in that mix? [LB1082]

DAVE HAACK: Yeah, generally that oil is run through what they call a treater, heater treater. And when it goes through that, it heats up that...the fluid that you get out of the hole and the oil is separated from it. The oil goes to the tanks and then the water goes into a pit or a disposal well. [LB1082]

SENATOR McCOLLISTER: So it's a mix when it comes out of the ground? [LB1082]

DAVE HAACK: Right, um-hum. [LB1082]

SENATOR McCOLLISTER: So when you return that water, you're, essentially, making it cleaner. [LB1082]

DAVE HAACK: Well, we're essentially putting the water where you're taking it from back into the ground where it came from. [LB1082]

SENATOR McCOLLISTER: But you've taken the oil out. [LB1082]

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DAVE HAACK: I mean, you've taken the oil out. Well, yes, you're taking all the hydrocarbon and that out of the fluids that are produced. Right. [LB1082]

SENATOR McCOLLISTER: Okay. [LB1082]

DAVE HAACK: So you're not, you know, injecting oil back into the ground...or you try not to because that's where your profits are at. [LB1082]

SENATOR McCOLLISTER: Thank you. Thank you, Mr. Chairman. [LB1082]

SENATOR SCHILZ: Thank you, Senator McCollister. Any other questions for Mr. Haack? I have one for you. Thank you for coming all this way, again; I know how far that is. On your commercial well, do you...do you yourself require periodic testing of the fluids that the trucks are bringing in to make sure that there's not something that would go down that could affect your well in a harmful or impact it in a bad way? [LB1082]

DAVE HAACK: Other than, you know, our initial test to show them what we are putting down, no, because it's the same water. I mean, you can test it now, you can test it ten years from now and you probably wouldn't see any difference in it. [LB1082]

SENATOR SCHILZ: Right. And you have...you know exactly where all the water is coming from at all times? [LB1082]

DAVE HAACK: And we record every load. I have a ticket...every load that's hauled in to that disposal well, we have the...where it came from; when it was picked up; how many barrels; so it's all on record...everything we haul. [LB1082]

SENATOR SCHILZ: Okay. Sure. Okay, thank you. Any other questions? Seeing none, thank you very much for your testimony, appreciate it. [LB1082]

DAVE HAACK: Thank you. [LB1082]

SENATOR SCHILZ: Further opposition? [LB1082]

JOE KOHOUT: (Exhibit 17) Chairman Schilz, members of the Natural Resources Committee, Joe Kohout, K-o-h-o-u-t; registered lobbyist appearing today on behalf of our client, the American Petroleum Institute. We provided a letter to you, Senator Schilz, and to the committee,

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which I believe is part of the materials that are included in your packets. I would like to focus just briefly on one of the major concerns that was highlighted to me with regards to LB1082. And that is, if you have a copy of the letter in front of you, I'd like to look at section 2 of that letter which...wherein it references periodic sampling and reporting of injection fluids injected into Class II underground injection wells. The concern by the institute is that that sort of a process, if it is intended to retract the injected fluid from the well, that that would be, nearly, an impossible process because of the manner in which it is put in there. So that was the concern raised by the institute and the primary one that we have with LB1082. We, obviously, are willing to work with the committee, but that was one concern...that was the major concern that they raised on LB1082. So with that I would try to answer any questions that you might have.  
[LB1082]

SENATOR SCHILZ: Thank you, Mr. Kohout. Any questions for Mr. Kohout? Seeing none, thank you for your testimony, appreciate it. [LB1082]

JOE KOHOUT: Thank you. [LB1082]

SENATOR SCHILZ: Further opposition? Any more opposition? We do have...do we have any letters? Okay. At this point we will move to neutral testimony. Any neutral testifiers? Good afternoon. [LB1082]

STAN BELIEU: (Exhibit 18) Good afternoon. My name is Stan Belieu, it's S-t-a-n B-e-l-i-e-u. And I'm currently the deputy director of the Nebraska Oil and Gas Commission. And my primary function there is to oversee the OIC Program. We truly view this LB1082 as enabling legislation that will allow us to look at our statutes and then do specific rules and regulations based on those statutes. So it's kind of a springboard for the processes we have in place that allow for oil development. There are three different sections in it that we wish to make comments on. And I'm not going to take you through all that, but provide you with that. But they are simple language changes that change words like "require to conduct" and insert words such as "commercial well" in front of some of the paragraphs. We understand that this committee has a need to review the statutory authorities that it's given to its agencies. And certainly, this is to address the concerns that the public has had on this process and go through all the process that you've had with all the reviews and such, so we very much appreciate your time and we are always looking forward to the continuous improvement of our rules and regulations. [LB1082]

SENATOR SCHILZ: Thank you, Mr. Belieu. Any questions? Before you get up and leave, I would just like to say how impressed I was at going through all the reviews and everything like that, the testifiers before were exactly right--the Nebraska Oil and Gas Commission is doing a good job with what they've got and how they are interfacing with everything. On the reviews for

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the Class II injection wells. I was...myself and Senator Stinner attended all those reviews and it was quite a lengthy, intense, and it's a pretty technical process, and I learned quite a bit from that and learned more about Class II injection wells than I thought I ever would. But I want to say thank you to the commission and thank you to everybody else that was involved in that to get us up to speed. So I appreciate that. Does anybody else have any questions? Seeing none, thank you. Next neutral testifier. Director Sydow, good afternoon. [LB1082]

BILL SYDOW: (Exhibit 19) Good afternoon, Senator. Thank you for the opportunity to be here. My name is Bill Sydow, B-i-l-l S-y-d-o-w. I live in Sidney, Nebraska, and I'm the director of our Nebraska Oil and Gas Conservation Commission. I want to say, first off, that our commission is a three-member commission; we're cash funded. We are what's called noncode, and the director works directly for those commissioners and we regulate all the oil and gas exploration and production operations in Nebraska. I want to thank this committee and each of you for your hard work in 2015, because I knew that you did spend a lot of time as you studied our commission for both of those legislative resolutions. And I really wish each of you would have had the time to come by our office. I like to teach and I like to talk about oil and gas. And so if you didn't, I'm going to invite you to come to Sidney sometime and we'd be glad to take you through that. I'm just a commenter as well following on to Stan. The comments that we've handed out are...or that I have prepared here are very specific and they deal with language where we would like the committee to strike in some cases or insert in others. I believe that the intent of LB1082 was to address the issues that we had with the commercial saltwater disposal wells, not the enhanced oil recover wells. And so the language that I've got in there is dealing with the fact that specifically, those words could be in there to say "commercial Class II disposal wells." You've probably all seen the fiscal note. I had one question, not from any committee member, but on the executive side about my fiscal note. I made that very broad because of the lack of about five words dealing with permits under the jurisdiction of the commission. It's the intent of the 57-901, toward the end, to allow our commission to conduct some public forums, or I'll say educational opportunities, which we have, but we've not, maybe, taken as much advantage, although, I've...I and myself...or Stan, we have spoken whenever we can and wherever we can. So that's the intent, I think of a part of this which is good. And I also want to talk about the hearing that we had last March. Our agency is quasi judicial. We don't have comments, we don't take comments during the hearing process because it's like a court of law. And the witnesses are sworn after they have been affirmed to be expert in their field. There are exhibits presented and that transcript...complete transcript of our hearings is subject to review by a district court all the way up to the Supreme Court on appeal. So I, in fact, like some of the addition anyway to the 57-901 language where it gives us an opportunity to answer questions. When we had our comment period back in March in our offices, we were instructed by our attorney at the Attorney General's Office of two things: my commissioners who I work for or myself or Mr. Belieu could not answer any questions and we could not acknowledge or make any statements or we would have been in violation of the Nebraska Open Meetings Act. So it's just for comment and we could

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listen and that's exactly what we did. So I believe with some language changes that we've got to say that we've got the language concerning commercial disposal wells, it would be good. I'll just...I want to make this last comment because it's come up and I've told Senator Schilz and Ms. Lage this before: That enabling statute, 57-901, I personally like it a lot. And the reason I like it is because of those words--to foster, to encourage, and to promote the development of our state's oil and gas resources and the use of those resources. I don't think that's anything we should be ashamed of; we're certainly not. And this is how we do that: foster, encourage, and promote and succinctly it's four ways at our commission. Number one, we have rules and regulations that I believe are effective and get the job done and we enforce them as evenly-handed as we can, and that's a level playing field. Second, we collect data, we collect a lot of data and we handle it; we don't just file it. We scan it; it goes back out on our Web site the next morning and it's available, it's high quality, it's fast, and it's free. Anybody can access it for free. We'll put out map databases that are free for computer mapping. When people come to our office or over the telephone, we smile and we try to help them no matter what they do. And fourth, we try to do thing as fast as we can. If we can accomplish those four things, we can...that is how we promote the development. We have an environment and a regulatory environment that is conducive to...that people want to come to Nebraska to do business and find oil and gas and hopefully be successful. So that's how we do that. We never call anybody; we don't raise money; we don't...we don't...it doesn't say promote the industry. It says promote the development of the state's oil and gas resources. And I'm proud of our commission. It's been around since 1959. We produce...or we regulate a product of oil and natural gas, everyone that without it we wouldn't eat, we wouldn't clothe ourselves, we wouldn't have medicine, we wouldn't have transportation. And with that provision of oil and natural gas in our country, I believe that we do provide for the health and welfare of our people. [LB1082]

SENATOR SCHILZ: Thank you, Mr. Sydow, appreciate that. Any questions? Well, I'd just like to offer the same thing I said to Stan, is making yourselves available and opening up those review processes were very helpful and very much appreciated and, truly, keep up the good work that you guys are doing out there. Does anybody have a question? Seeing none, thank you for your testimony, appreciate it. Further neutral testimony? Going once...neutral? Okay. Afternoon. [LB1082]

BILL HAWKINS: Afternoon, Senator Schilz, commission, counsel, Senators, I appreciate you being here and addressing this. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I'm a life-long Nebraska citizen. And I'm speaking in a neutral position because I guess I'm looking at the testimony of the opposition here and I see that...how safe the oil and gas industry is, how the commission is working to protect that. And as business people, generally they will look at the bottom line and not look to spill. I believe that; most people will. But the gentlemen up here that have been defending fracking have kind of been looking at maybe not what LB1082 is about. It's about injection wells. And that is taking toxic fluid...my brothers...two brothers, one is a

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mechanical engineer, one is a chemical engineer for the last 30 to 40 years. My brother was one of the first chemical engineers to work on getting rock samples and taking chemicals that we haven't really talked about that is included in this water that we're injecting into what we now refer to as an injection aquifer. We just had our natural resource department have a well-planned display of our natural resources in the center of the Capitol, if you would have noticed last week. It had a very well-designed diagram of an injection well. You have a steel casing, and then you have layers of concrete. We are injecting, under high pressure, chemical-laden salt water. If you know anything about steel and salt and other toxic chemicals that we don't even know what these chemicals are, there is infrastructure problems with that. If you live in basements in Nebraska, you know that concrete crumbles. And so we may not be as safe as we are with this industry. My brother who is a mechanical engineer was in charge of all oil off-loading in San Diego. He laughed at one point that they had a spill in a suburb that filled the sewers that was bigger than Valdez. But because they cleaned out all the sewers and cleaned it all up and paid the town, the town was happy and was able to get by with that. So we do have incidents all the time. One of the gentlemen stated up here that he doesn't know of any fracking problems in any of the other states. We have from open pits in Wyoming, people who can light their well water on fire. There are moratoriums on these injection wells in Oklahoma because of earthquakes, multiple earthquakes. How greedy are we that we have to take injection...or oil well water laden with toxic chemicals and then take the risk of possibly toppling Chimney Rock. Maybe it won't bother you that, you know, it possibly affects the groundwater, but what if we topple Chimney Rock with an earthquake? Can we take that chance? And so I applaud the effort to look at this, but as you heard from the objections, they don't want it to change. The lady stated that they would rather keep it like the commissioner of baseball, instead of having a commission that regulates the industry. And I'm not saying that these gentlemen don't or that...but he did mention that they are on a cash basis. I don't know what that means. But I do respect what they do and, you know, I really, truly, believe that we don't want to destroy our planet. So I thank you for your time and I would be glad to take any questions. [LB1082]

SENATOR SCHILZ: Any questions for Mr. Hawkins? Seeing none, thank... [LB1082]

BILL HAWKINS: Thank you and have a pleasant day. [LB1082]

SENATOR SCHILZ: Any further neutral testimony? Once...neutral testimony? Seeing none, that will end our hearing on LB1082 and we will move...I see Senator Haar is here, we will move to LB1070, and Senator Haar, you're welcome to open on your bill. [LB1082]

SENATOR HAAR: Thank you very much. Chairman Schilz and members of the committee, LB1070 would provide financial assurance requirements for injection wells and disposal wells. It would require \$1 million in liability insurance for all injection and disposal wells, and \$5 million

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in liability insurance for any commercial disposal well that disposes of more than 500 barrels per day. These provisions are intended to make sure that the Nebraska taxpayers don't end up having to pay for damage caused by fracking or wastewater disposal operations. Revision of the financial assurance requirement is an area which both the EPA review and the Groundwater Protection Council found needed to be updated. The liability insurance provisions of LB1070 are intended to address part of the recommendation. The only provisions of current regulations that we found related to financial assurance deal with bonding requirements in the amount of \$10,000 per well, or \$100,000 for a blanket bond for all wells operated in Nebraska. A limited review of liability insurance requirements found several states that require \$1 million or more in liability insurance for various types of injection wells, including Colorado, Ohio, and Texas. The state of Oklahoma does not state a specific amount, but uses the term "sufficient" liability insurance to cover potential damage for a spill from an injection well. There isn't a great deal of information about the cost of cleanup from spills of injection well wastewater, in part because the process has only become widespread in recent years. However, one report from North Dakota indicated that more than \$3 million had been spent on cleaning up a site where fracking wastewater had spilled. Another report stated that California's spill had cost more than \$9 million. However, there was no indication that the cleanup had been completed, even though millions of dollars had been expended. Although there are thousands of reported spills of small amounts of fracking waste, most do not have publicly-reported amounts of the cost of cleanup. More tragic are reports where the salty brine from a wastewater spill has killed all of the vegetation for the foreseeable future, and landowners are stuck with thousands of dollars in legal fees to try to recover for the damages caused by leaked or spilled fracking wastewater. According to a 2014 survey of liability insurance, more than 85 percent of small businesses carry...and this is just any small business, carry \$1 million per occurrence and \$2 million aggregate in liability insurance coverage. Therefore, it seems to make sense to require at least \$1 million in liability insurance for a process that has the potential to cost millions to clean up. The \$5 million in liability insurance for larger commercial operations is intended to make sure that such operations have the ability to cover damages that such operations might cause. The bottom line is that the people who are in the business to make a profit from wastewater disposal should have sufficient insurance coverage so that landowners or taxpayers are not left holding the bag. LB1070 would also prohibit injection wells in areas in which the groundwater aquifer begins 50 feet or less below the surface, or if the saturated depth of the aquifer extends more than 100 feet below the surface. This definition is intended to prevent injection wells from being located in places where the aquifer is particularly vulnerable such as the Nebraska Sandhills. This provision is intended to protect groundwater which is "Nebraska gold." I would be glad to work with the committee to make sure these issues are properly addressed. And to quote former President Ronald Reagan: We have to trust that people would clean up these messes, but trust, but verify. And with that I will end my testimony. [LB1070]

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SENATOR FRIESEN: Thank you, Senator Haar. Any questions from the committee? Seeing none, thank you. You'll stay around to close? [LB1070]

SENATOR HAAR: Yes. Thank you. [LB1070]

SENATOR FRIESEN: Okay, are there any...anybody wish to testify in favor? Any proponents? Welcome. [LB1070]

JAMES CAVANAUGH: Thank you, Senator. Members of the Natural Resources Committee, my name is James Cavanaugh, J-a-m-e-s C-a-v-a-n-a-u-g-h, an attorney and registered lobbyist representing the Nebraska Chapter of the Sierra Club, appearing today on their behalf in favor of LB1070. We commend Senator Haar for bringing this forward-looking proposed legislation to your attention. Real briefly, all of us who own and drive automobiles in Nebraska are required by statute to carry liability insurance because of the danger of having an accident. All of us who own real property--your homes, your businesses, if you have a mortgage, are required by the mortgage holder, the bank, to carry liability insurance in case there's damage to that property. And if you don't have a mortgage, then you are remiss in your own interest not to carry liability insurance to protect your investment. This bill, essentially, operates along the same lines. When you think about fracking, I guess you only have to ask one question: What could possibly go wrong? What could possibly go wrong? I mean I've listened to the testimony of the oil and gas industry here today and you would think that nothing could possibly go wrong in the fracking operations conducted in Nebraska. And if you believe that, then nothing could possibly go wrong in the automobile operations in Nebraska. Nothing could possibly go wrong in the homeowners or real property ownership aspects of Nebraska's economy. But, you know, be reasonable--things happen. And perhaps, I don't know, the testifiers have indicated that they're not aware of anything going wrong in Nebraska, but you can look around the country and find numerous examples of where things have gone wrong. And the idea that nothing will ever go wrong here, I think, is farfetched. So looking ahead to that unhappy day when something does go wrong, I think it's the only responsible thing to find a way to ensure that when that happens, some remedial action can be taken that would repair at least some of the damage. That's what LB1070 sets out to do. We already do it in other areas. It's responsible insurance policy. And we'd urge you to adopt that in this area as well. Thank you. I'd be happy to answer any questions you might have. [LB1070]

SENATOR FRIESEN: Thank you, Mr. Cavanaugh. Senator Johnson. [LB1070]

SENATOR JOHNSON: Thank you, Senator Friesen. I'm familiar with a couple of types of bonds. One, I have a personal bond. I don't know if a senator is at high risk for personal liability or not, but they've given me a rate. I'm familiar, somewhat, used to be familiar with the grain



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bond and there's limitations on the dollar amount and different types of risk. Are you familiar with what the costs would be...or what the risk factor might be in the oil industry for bonding and what limitations might be on a particular entity and a cost? A lot of question, but... [LB1070]

JAMES CAVANAUGH: Senator, specifically I can't quote you a rate. I can tell you this: I've represented insurance industry entities in this body for almost 30 years. And every single responsible insurance entity in America has great expertise at quantifying that risk and setting a premium that would be adequate to support the risk that they're insuring against. So I can't say that it's so much per thousand or anything like that. I can say that those calculations have been made. And in other areas of the United States where provisions like this are in force, you can find those quotes, wouldn't take long. I'd be happy to help you try to find some if you're interested in pursuing that. [LB1070]

SENATOR JOHNSON: If you could do that or give me a source or something. [LB1070]

JAMES CAVANAUGH: Absolutely. [LB1070]

SENATOR JOHNSON: Appreciate it, thank you. That's all I have. [LB1070]

SENATOR FRIESEN: Thank you, Senator Johnson. Any other questions from the committee? Seeing none, thank you, sir. [LB1070]

JAMES CAVANAUGH: Thank you, Senator. [LB1070]

SENATOR FRIESEN: Welcome. [LB1070]

ELLEN HANSEN: Hell again, Senators. It's my pleasure to be here today. I heard lots from my friends from the oil lobby in Kansas... [LB1070]

SENATOR FRIESEN: Excuse me, could you say and spell your name. [LB1070]

ELLEN HANSEN: (Exhibit 1) I apologize. Ellen Hansen, known in the community as Elle, it's either E-l-l-e or E-l-l-e-n H-a-n-s-e-n, please do not use my full name unless I'm in deep trouble. Lots from our friends from the Kansas oil and gas lobby; hello to my friends from Berexco. Berexco operated in my hometown, operates here in my hometown, and my foster father is currently on permanent and total disability because they were remiss in their safety precautions and he is no longer able to work due to his injuries. It's wonderful to see you all here. I would

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like to point out that at...oh, what was it, 12:15, I believe, this afternoon, our friends in Logan, Oklahoma, experienced, I believe, a 3...no, 4.3, I believe, magnitude earthquake. It just reached me while I was listening to the opposing testimony in regard to the previous bill. As you see, I've passed out a handout, thank you to the pages for your help. The little town of Bokoshe, Oklahoma, has been affected by fracking wastewater, such as they would like to put in the ground here in Nebraska. Bokoshe is Choctaw, and I am a member of the Choctaw Tribe, as I've stated previously, for "little stream." And that is of significance that I will point out shortly. In the second paragraph, you will see residents have just learned "wastewater from"... those are the two most important words that I would point out, the oil and gas process called fracking has added to the contamination and they say it has reached Oklahoma's underground drinking water. This is several years old. This is an issue that is ongoing. Additionally, if you look down in paragraph 6, this group of investigative journalists in Oklahoma says--we uncovered documents from tracking truckloads of fracking wastewater directly from oil and gas wells in Arkansas to Bokoshe. Documents show some of the Arkansas frack jobs use thousands of gallons of hydrochloric acid and millions more gallons of undisclosed chemicals. Then in the next paragraph it tells us that these contaminants are running off into the tributary of a creek that runs right through nearby residential property. This is part of a class...part of the details of a class action lawsuit. Think of what would happen if fracking wastewater were to contaminate the Missouri River. Things don't not break, it's if it's not when. I think that this bill is a step in the right direction because if...and one we must take because if we contaminate a tributary that runs into another state, then we're looking at liabilities within our own state. And so I don't know if that's a risk you all are willing to run. I just know that I'm not. But the EPA has said that fracking wastewater causes environmental difficulties that affect human life; or at least that's the implication, they may not have said that directly. And the oil and gas industry says that 5 percent of their fracking injection wells leak. I don't know how much more clear we can become on that. And somebody mentioned Pennsylvania. I wish there were criminal penalties for people getting up here and lying to this committee because that bothers me. It bothers me to have to sit back there and listen to people lie to you guys because that affects me, that affects others in this states. There were nine counties, I believe, in northeast Pennsylvania that were affected by fracking wastewater. So don't get up here and tell my senators that fracking wastewater doesn't affect people; it does. The implications are severe. We have to move this out of committee, you guys, we've got to. Please vote for it. Thank you. [LB1070]

SENATOR FRIESEN: Thank you, Ms. Hansen. Are there any questions from the committee? I see none. Thank you. [LB1070]

ELLEN HANSEN: Thank you. [LB1070]

SENATOR FRIESEN: Welcome. [LB1070]

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JANE KLEEB: (Exhibit 2) Afternoon, Senators. My name is Jane Kleeb, K-l-e-e-b and I live at 1010 North Denver in Hastings, and I'm representing Bold Nebraska. It's good to be back up here so quickly. I wanted to address a couple of issues during my time, this time around. One, during the fight on the Keystone XL Pipeline, one of the big things that we wanted was some financial assurance that if a spill happened, that the company responsible would be the ones who would have to actually clean it up. That actually didn't happen unfortunately. But in TransCanada's contract that they had landowners sign, they told landowners that they should take out a million dollar personal liability insurance policy. And so if oil companies are telling individuals to take it out, I think we as a state would be in good shape to tell oil companies to do the same thing for themselves. So that's point number one. The report that your committee did on kind of the state of the Oil and Gas Commission, as well as fracking currently in our state, clearly says that there needs to be strengthening of financial assurance. Right now, the current rules only require a \$10,000 bond. And so we, as Bold Nebraska, strongly support Senator Haar's bill for that purposes. Just a couple of other things that I wanted to point out. I was asked about baseline water testing and I answered I wasn't aware of that being a requirement. We've looked on the Nebraska Oil and Gas Commission Web site. We haven't seen anything in their rules and regs. If it is there, we'd love to see where the actual water baseline testing is performed and where it is contained online so citizens can see it. We haven't been able to find that information. They also only require that one sample...only one sample at the time of the application is submitted of the fracking waste that is going to be injected into our state. It's not an ongoing evaluation; it's not every truck load; and we think that that is definitely not enough safeguards for our state in order to protect our land and water. There have been cases of water contamination of fracking waste. That has been cited by the EPA study. There was actually studies before that. They were major conflicts of interest of the entity that was hired to do the study for the EPA so they had to redo it. And in that redo of the study, they did show that water has been contaminated in California, Oklahoma, and Texas. So we just want to encourage the committee to potentially, maybe, merge Senator Schilz's and Senator Haar's bill so we have one bill that offers some baseline protections for farmers, ranchers, landowners, and citizens that rely on clean drinking water. Thank you. [LB1070]

SENATOR FRIESEN: Thank you, Ms. Kleeb. Any questions from the committee? Seeing none, thank you for your testimony. [LB1070]

JANE KLEEB: Thank you, Senators. [LB1070]

SENATOR FRIESEN: Are there any other proponents wish to testify? Welcome. [LB1070]

JANECE MOLLHOFF: (Exhibit 3) Good afternoon. Janece Mollhoff, J-a-n-e-c-e M-o-l-l-h-o-f-f. I'm here to support LB1070 on behalf of the League of Women Voters of Nebraska. Since

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2010, the League has sought to reduce the environmental impact of mining processes that contaminate and pollute our natural resources. From our studies, the League has concluded that hydraulic fracturing and storage of the resulting wastewaters poses a threat to drinking water, public health, and safety. There's a special concern about future liability issues because often oil and gas company liability is paid for by taxpayers and not the wastewater producers and storage companies themselves. In Nebraska, there's more at stake than drinking water. Our entire agricultural economy is dependent upon the aquifer at every phase of the operation. Leaking fracking wastewater could be catastrophic and the liability should be fully on the industry and not with state or federal disaster funding as we've just seen happen in California. The League supports locating disposal facilities in areas posing least public risk, and so encourage wastewater to be housed in areas posing the least threat. Wastewater storage in close proximity to sources of drinking water, whether they be surface or underground, is a concern. With the upsurge of seismic events in Oklahoma, one of which was most recently felt in some Nebraska southern counties, and the correlation of the increased incidents of earthquakes with the increase of fracking and pressurized storage facilities, it is urgent that we address this issue now and not at some time in the future when our aquifer becomes contaminated. As hydraulic fracturing has expended throughout the country, communities have been forced to make decisions without access to reliable information about potential risks to health, safety, and the environment, and it is befitting that our Legislature and other duly-elected officials make laws and establish safeguards to protect our land, water, and public health. Setting standards for minimum levels of liability insurance for both the drilling and disposal of wastewater is prudent for the protection of our most valuable natural resource. Restricting wastewater storage facilities to areas away from our drinking water is also prudent. I urge you to vote for LB1070 because wastewater from drilling is brackish saline solution that contains some concentration of toxic chemicals. And if you would not drink it, feed it to livestock, or use it for irrigation, you don't want it in our aquifer. Any questions? [LB1070]

SENATOR FRIESEN: (Exhibits 4 and 5) Thank you, Ms. Mollhoff. Any questions from the committee? Seeing none, thank you for your testimony. Any other proponents wish to come forward? We have a couple of letters of support of LB1082 from Dean Edson, Nebraska Association of Resource Districts; Brandon Grimm and David Corbin, Public Health Association of Nebraska; John Berge, North Platte NRD. [LB1070]

SENATOR JOHNSON: That's LB1082. [LB1070]

SENATOR FRIESEN: (Exhibit 6) Oh, LB1070...sorry. Brandon Grimm and David Corbin, Public Health Association of Nebraska; John Berge, North Platte. And there is a list of citizens from Trenton, Nebraska, submitted by Bold Nebraska and Amy Schaffer. And now we will go to opponents. Are there any opponents who wish to come and testify? [LB1070]

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CHRIS PETERSON: Mr. Chairman, members of the committee, my name is Chris Peterson, C-h-r-i-s P-e-t-e-r-s-o-n and I am the registered lobbyist for the Nebraska Petroleum Producers Association, commonly referred to as NPPA. I'll make some very brief observations and certainly attempt to answer any questions, but leave to my members who also testify who will...who are better equipped to answer your technical questions about the bill. I might start by saying certainly appreciate...after reviewing LB1070, Senator Haar's effort here, and recognize that for many businesses that operate in the state of Nebraska, liability insurance is a good business practice. But the Legislature has not put in statute every good business practice in the state. And so we would suggest that businesses should best be left to make those decisions on their own. I also want to reflect a little bit on the comments made earlier comparing a requirement for liability insurance for this industry to a requirement for liability insurance for the automobile industry. I'm no expert, but I think it's reasonable to assume that in the course of the last year there's probably been thousands, if not tens of thousands of motor vehicle accidents in the state of Nebraska; probably thousands in the last 30 days, probably, maybe, even a few hundred since we started the hearing this afternoon. That would contrast with the oil and gas industry, and specifically my members who, again, as has been mentioned, have not had a demonstrated history of accidents or a need to clean up, certainly, any groundwater contamination. And then finally, I would mention that with respect to the groundwater restrictions on where you would be able to obtain a permit for drilling in the state of Nebraska, we are very concerned about that restriction in that those groundwater levels across the state are variable and we believe, and I'm sure that some of my members will talk more to this, that this could have a very, very chilling effect on future development and growth of the oil and gas industry in our state. And then one final comment, we've heard some mention this afternoon about earthquakes and I recall that at the committee's interim study hearing in Sidney, we heard from the state geologist. And I think we heard quite definitively from the state geologist about the history of earthquakes in Nebraska and our rock formations...pardon the lack of technical terminology, and how it's really not conducive, especially in the areas where we have oil and gas production for seismic activity. With that, Mr. Chairman, I'd be happy to attempt to answer any questions if there are any. [LB1070]

SENATOR SCHILZ: Thank you, Mr. Peterson. Any questions? Senator Johnson. [LB1070]

SENATOR JOHNSON: Would you have any idea what it would cost for a bond...for a million-dollar bond? [LB1070]

CHRIS PETERSON: I would not, Senator Johnson, not off the top of my head, but I'm confident that one or more of the individuals testifying after me could answer that question. [LB1070]

SENATOR JOHNSON: Okay, thank you. [LB1070]

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SENATOR SCHILZ: Thank you, Senator Johnson. Senator Kolowski. [LB1070]

SENATOR KOLOWSKI: Thank you, Mr. Chair. Mr. Peterson, you said something about...at the end of your testimony there, about the earthquakes in Nebraska. Do you think there's any relationship to what's happening in Oklahoma? That's the state that was mentioned compared to Nebraska? [LB1070]

CHRIS PETERSON: I would invite you to ask a similar question to individuals involved directly in the industry, but I think that from what I've read from individuals...companies involved in oil and gas production in other states, they've acknowledged that there is some relationship. But again, those are areas of the country or states in which there is much, much higher production of oil and gas; much, much higher levels of wastewater being placed into disposal wells; much more fracking activity. And as the state geologist indicated in Sidney, we just have a very different environment here that is not conducive to that kind of seismic activity. [LB1070]

SENATOR KOLOWSKI: But you're agreeing that that has happened in Oklahoma and people are putting two and two together. As far as what... [LB1070]

CHRIS PETERSON: From what I've read, there...yes, there does appear to be some correlation based on the circumstances in Oklahoma and possibly elsewhere. But those same circumstances don't line up here in Nebraska. [LB1070]

SENATOR KOLOWSKI: Mainly because of our lack of wells and how little drilling we've had in total in this state compared to Oklahoma or Kansas or Texas? [LB1070]

CHRIS PETERSON: Nebraska has dramatically less oil and gas production than some of those other states. For example, off the top of my head, I know that in 2014 Nebraska had just one-sixteenth of the oil production as the state of Kansas; which again, was much smaller than Oklahoma or Colorado, and so it's just a different...much different environment. [LB1070]

SENATOR KOLOWSKI: Thank you. [LB1070]

SENATOR SCHILZ: Thank you, Senator Kolowski. Any further questions? Seeing none, thank you for your testimony. [LB1070]

CHRIS PETERSON: Thank you. [LB1070]

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SENATOR SCHILZ: Next opposition. Welcome back. [LB1070]

DANA WREATH: Thank you, Senator. Again, my name is Dana Wreath, D-a-n-a W-r-e-a-t-h and I work for Berexco and I came from Wichita, Kansas, to be here today. And I guess I should mention right off the bat that in my case I have a bachelor's degree in petroleum engineering from the University of Kansas and a master's degree from the University of Texas. And I think one thing that is difficult for folks who come up here to testify that don't have an engineering background is it can be difficult to keep track of the technical side of things, keep track of the mechanical side of construction of oil and gas wells. And when you talk about LB1070, the greatest concern I would have with this bill is Section 5 where it says--no permit shall be issued for the drilling of an underground injection well; that, basically, if the underground fresh water is between...unless it's between 51 and 99 feet deep. Well, that is going to effectively ban...ban construction of new injection wells in the state of Nebraska which would more or less wipe out the oil and gas industry. And I don't think we want to do that. There's got to be some better solution than just sort of "bulldozer" language like that that effectively prohibits injection wells. And I would also like to speak about the business of insurance and bonding. And the first thing to know is that the annual cost for bonding is 4 percent of face. And I know that because we operate in Montana where I'm sad to report the underground injection control effort is regulated by a little agency called the United States of America Environmental Protection Agency. They're not lucky enough to have a Kansas Corporation Commission, an Oklahoma Corporation Commission, or a Nebraska Oil and Gas Commission, they're stuck with the EPA. And up there you have to have a bond, typically a \$100,000 bond and it's 4 percent of face. So if you were to take this language here...we operate about 175 injection wells in this state of Nebraska. And I'm not sure whether to read this that it's a million dollars per or a million dollars total, but you can see right away things start to get out of control in terms of cost. I do believe that it's prudent business to have liability insurance. The company I work for does have substantial liability insurance. But that's a prudent business decision we've chosen to make. And there was a comment made about how it would be terrible if the citizens of the state of Nebraska have to pick up the check to clean up fracking waste. And I would suggest that we should ask ourselves how many checks they've picked up so far. I would suggest that the answer is zero. And I also testified earlier that in the last three years since I first testified before this committee, Berexco has not fractured one well in the state of Nebraska...none. And we're the largest producer in the whole state. We operate more wells in this state than any other company; we operate out west in the Kimball area, we operate in the McCook area, we haven't fractured one well. And so to suggest that we need to come in here and do something about all this fracking is...lacks knowledge, lacks understanding of the actual facts on the ground in the Nebraska oil production industry. I would also add one more thing just for the benefit of an earlier testifier. I happen to have a copy of the Nebraska Rules and Regulations right here and in chapter 4, underground injection control, Section 004.02J3...no, J4, it says any time you make an underground injection control well permit application, you must provide, I quote, analysis of fresh water from two or

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more fresh water wells within one mile of a proposed injection well showing the location of the wells and the dates the samples were collected. So we do have baseline sampling in this state. And again, the overriding message is there really is no out-of-control injecting in this state, there's no out-of-control fracturing. And if there was...if there was, you'd see testifiers here from Kimball and from McCook and from Trenton saying--these dirty rotten oil companies did X, X, X. Instead, we see testifiers from Omaha and Lincoln. And the proof is in the actual results. And I would encourage the committee to not forward this bill and instead concentrate on other efforts that might help encourage oil and gas activity in the state because it's good for the economy. [LB1070]

SENATOR SCHILZ: Thank you, sir. Senator McCollister. [LB1070]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. And thank you for your testimony. I would venture to say you carry insurance, do you not? [LB1070]

DANA WREATH: Yes, sir. [LB1070]

SENATOR McCOLLISTER: Okay. Do you have any kind of liability insurance on your vehicles or collisions or anything of that sort? [LB1070]

DANA WREATH: The company I work for carries commercial liability insurance on our vehicles. We also carry liability insurance for our oil and gas producing operations. [LB1070]

SENATOR McCOLLISTER: So in essence, you already comply with this bill. [LB1070]

DANA WREATH: With respect to the language, the language was a little bit ambiguous, but in terms of having an overall blanket liability insurance policy, Berexco would comply with the letter...or at least what I believe is the spirit of it today. [LB1070]

SENATOR McCOLLISTER: And I'm sure you do. Having come out of the oil business myself, we carry a liability policy of that kind and we're happy to pay 4 percent of face. And I would venture to say in Wyoming that it's an aggregate kind of a coverage, it's not per well. Isn't that correct? [LB1070]

DANA WREATH: Well, I think we need to clarify something. There is a difference between liability insurance and bonding. Okay? Senator Johnson, you were asking about bonding. And so I responded with what bonding costs, which is 4 percent of face per year. Liability insurance is a



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totally different thing. Liability insurance is priced completely differently, and I don't have with me what liability insurances costs run. [LB1070]

SENATOR McCOLLISTER: What is the difference? [LB1070]

DANA WREATH: Well the difference is, if you post a bond to operate an oil and gas well in Montana, and it turns out that the oil company that's operating that well goes bankrupt, and maybe there was no spill whatsoever, you just simply went bankrupt and there's a well out there that needs to be plugged, it needs to be cleaned up, the oil company has posted a bond and those funds would be available in the event of the failure of the oil company. Insurance is not with respect to the failure of the oil and gas company. So let's say that we, in Berexco's case, that we have a rig moving down the road and our fellow that's driving the rig drives off into the ditch and he drives through somebody's garage and tears up their car and who knows what else. Berexco would have a liability claim by the person that owned the house and the garage that was damaged, and then we could apply to our insurance company to settle that claim. But we didn't go out of business, we're still a viable company. Just like if you had a car wreck and some tragedy occurred, there could be liability and the insurance would cover it. [LB1070]

SENATOR McCOLLISTER: I understand. But in practical effect, doesn't insurance cover most of the dangers or some of the occurrences that might occur? [LB1070]

DANA WREATH: Well, I think that's a pretty ambiguous question. You can buy insurance to cover any danger, I suppose, that's their business. But again, in the state right now, the state of Nebraska, there's a bonding requirement, it's \$100,000 if you have more than ten wells. In fact, I gave you earlier a copy of a letter from the state confirming our bond. But that's separate and distinct from the liability insurance that we may cover, as well as any other types of insurance. And I want to go back to what Chris Peterson said. It's certainly true that liability insurance is a prudent business decision. But that doesn't mean that the state should impose that or force a smaller company that may operate one or two wells...or one well to purchase an equivalent level. There's been no testimony here that defined what an appropriate amount was or what a spill would cost if there even was one. [LB1070]

SENATOR McCOLLISTER: But don't most liability policies cover acts of spillage or environmental kinds of issues? [LB1070]

DANA WREATH: Actually the answer is no. You'd be surprised. We were discussing amongst ourselves earlier the fact that many liability insurance companies do not provide pollution insurance. And the reason is it tends to be ill-defined what the damages might be. So most smaller oil and gas companies would have liability insurance that may not cover pollution. In our

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case, we actually do have pollution insurance. But we may be a rarity in that case in Nebraska. And it's very important to remember, in Nebraska we don't have Exxon and BP and Shell operating in the state. It's mostly small, privately-owned companies. That's who I work for, a smaller, privately-owned company. So I think you're...while the theory might be right that, golly-gee, people probably ought to have some insurance, that's different than saying this state should impose a certain set limit of insurance. [LB1070]

SENATOR McCOLLISTER: Okay. Let me change the tack of the questions. You say you currently have a \$100,000 bond in Nebraska. Is that correct? [LB1070]

DANA WREATH: Yes, sir. [LB1070]

SENATOR McCOLLISTER: Okay. Is that sufficient? Is that an amount that is sufficient to cover the risk that you have? [LB1070]

DANA WREATH: Well, first off, the answer to your question is yes, but that needs to be clarified as well because that bond is not covering any risk for us, per se, it's covering risk for the state of Nebraska. The bond's purpose is that if Berexco, my employer, goes belly up, that the state could then access the funds of the bond to go plug the wells. And to elaborate, the reason that bond is sufficient is oil and gas wells tend to have valuable equipment on them which is used to offset the cost of plugging the wells. [LB1070]

SENATOR McCOLLISTER: If you were to have some kind of environmental spill, could they utilize...the state of Nebraska utilize that bond for that purpose as well? [LB1070]

DANA WREATH: I do not believe so. And I would like to defer that to Commissioner Sydow. But I believe the answer is no. However, the oil and gas company itself has assets, as do all of us here. And the Oil and Gas Commission will and has, I'm certain, the authority to require the oil and gas company to clean up whatever spill there may be. [LB1070]

SENATOR McCOLLISTER: Well, I hope you have greater assets than I do. Thank you very much. [LB1070]

DANA WREATH: Yes, sir. [LB1070]

SENATOR SCHILZ: Thank you, Senator McCollister. Senator Hughes. [LB1070]

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SENATOR HUGHES: Thank you, Chairman Schilz. Thank you, Mr. Wreath, for coming in today. During your testimony you said that your company is the largest oil producer in the state of Nebraska and you have never fracked a well in Nebraska. Is that correct? Did I understand that right? [LB1070]

DANA WREATH: No. I said that within the last year...three years we've not fracture-stimulated a well. About five years ago, we experimented and fracture-stimulated two wells south of Trenton; both of which were basically failures. They didn't help the oil production at all. And the reason I mention that, Senator, is I...there seems to be a widespread notion that people are fracking wells like crazy in Nebraska; but that is not true. [LB1070]

SENATOR HUGHES: Why not? Why not? [LB1070]

DANA WREATH: The geology is not suitable for fracturing to help oil production. Fracturing is a technique used to stimulate production from oil and gas wells. And the geology and the rocks are just not very conducive for that in this state. [LB1070]

SENATOR HUGHES: Thank you. [LB1070]

SENATOR SCHILZ: Thank you, Senator Hughes. Any further questions? Seeing none, thank you for your testimony. [LB1070]

DANA WREATH: Thank you. [LB1070]

SENATOR SCHILZ: Further opposition? Welcome back. [LB1070]

LEON RODAK: (Exhibit 7) Thank you. Again, my name is Leon Rodak, L-e-o-n R-o-d-a-k, and I'm the vice president of production of Murfin Drilling Company of Wichita, Kansas. Murfin opposes LB1070, again, it's unnecessary and burdensome to the oil and gas industry. I might want to preface my comments here by saying somewhat to characterize the Nebraska oil industry as operating at the expense of the environment. That is not the case. The history of underground injection in Nebraska has a sterling record. We are subject to the rules of the EPA and the Nebraska Oil and Gas Conservation Commission. We fully support those rules. We don't take any chances with the fresh water. So when I say a law is unnecessary or burdensome, it's not sacrificing the protection of our fresh water, rather it reflects a rigorous and effective system of environmental protection. We've not seen a parade of people at these hearings testifying how disposal wells have polluted their fresh water. The EPA's review and the Natural Resources Committee's interim study found no smoking guns of pollution. A state's first peer review has

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been conducted based on national standards and best practices. The final report has not been issued, so we seem to be rushing to legislate before all the facts are in. With that being said, preliminary testimony of a Groundwater Protection Council reviewer was that the commission is a national leader in developing data management systems resulting in more environmentally sound and protective regulation. It also achieves a maximum of environmental protection. LB1070 requires liability insurance of \$1 million to drill an injection well, \$5 million to drill a commercial disposal well. The history of the industry here is that this has not been shown to be needed, it's a burden on an industry struggling to survive, and as documented in the interim study, is not the norm in oil and gas regulation. I would also note that on the bonding, the Nebraska Commission does periodically review those rates and did raise them here...I think it was two or three years ago. LB1070 also bans water injection wells where the drinking water occurs less than 50 feet or greater than 100 feet in depth. I believe these footages apply to most areas where oil is produced in Nebraska. So make no mistake, it would ban water injection wells in most of Nebraska. And if we cannot safely dispose or inject our produced water, it's an industry killer. Millions of dollars of royalty payments, tax payments, and payroll will vanish from the Nebraska economy. And why does this bill ignore the fresh water between 50 feet and 100 feet? I believe our industry believes that all the fresh water are deserving of protection. And that's what we do. We protect that fresh water by fully supporting the current rules and that's why we oppose LB1070. And if I might elaborate just a little bit, Senator Friesen, a followup to your question about the baseline water testing--I got on my phone here and I went to the Nebraska Oil and Gas Conservation Commission and under hearing data...the very first one on 2015 hearings, Case Number UIC 14-14 Terex Energy, blah, blah, blah, and I pulled it up and down in pages 39 and 41 are the water analyses of the two fresh water injection wells located within a mile run by Olsen's Agricultural Laboratory of McCook, Nebraska. So they have been...they are required by the commission; they have been run, and they are available to the public. Thank you. Any questions, I'd be glad to try and answer them. [LB1070]

SENATOR SCHILZ: Thank you, sir. Any questions? You did a good job; thank you. [LB1070]

LEON RODAK: Thank you. [LB1070]

SENATOR SCHILZ: Further opposition? Welcome back, Mr. Haack. [LB1070]

DAVE HAACK: Yeah. Again, my name is Dave Haack. I'm speaking in opposition to this bill. The only thing I have to add is that we haul water to our disposal well. And the water to the EPA is not required, it's nonhazardous. There's no placards required to be on the trucks when we transport that. So I'm not sure where all these reports are coming with all this frack water all over the ground and contaminating and killing all the...that looks to me like somebody was asleep at the switch at some other state. It did not happen here. We have not had any environmental issues

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in our state with regard to any disposal water, frack water. So I just wanted to add that, you know, we have not had any problems along those lines. [LB1070]

SENATOR SCHILZ: Thank you, sir. Any questions? Do you, at your facility, do...have you taken produced water from fracking operations in the past or do you now? [LB1070]

DAVE HAACK: We have, the water...like I said, when it comes back it's very diluted. Ninety-one percent of the frack water is fresh water, then there's silt and sand so that are about 2 percent of the water that's used would be chemicals like maybe some hydrochloric acid, some surfactants like silts and that sort of thing. We had one disposal well in the city limits of Kimball that we operated for near 20 years and we never had any problems there whatsoever. I do have...the one I have now is south of Kimball about eight miles and we've operated that for probably four or five years, I suppose, and we haven't had any problems out there. [LB1070]

SENATOR SCHILZ: Sure. [LB1070]

DAVE HAACK: Like they mentioned before, you don't see anybody from Kimball, the city of Kimball where we operated one for 20 years out here protesting. At some of those earlier hearings, we had the city of Kimball testify in our favor; we had the county commissioners; we had several landowners; we had people from the schools, all speaking in favor of our industry. So that's all I have. [LB1070]

SENATOR SCHILZ: Yeah, and then just one last question, just my curiosity, so you no longer...you no longer operate the well in Kimball. [LB1070]

DAVE HAACK: No, we plugged that one. [LB1070]

SENATOR SCHILZ: And with just the logistics of getting trucks in and out. [LB1070]

DAVE HAACK: No, the reason we plugged it was because of mechanical failure. It wouldn't pass the test. Our commercial disposal wells are tested once per year and that's why I don't understand on some of these other reports that, you know, that they've contaminated the groundwater and all this. They should have found it before it ever got to that point. It should have never got to that point, so maybe somebody is doing something illegally, wasn't following the rules or whatever. But I find it hard to believe that that is happening in these other states. [LB1070]

SENATOR SCHILZ: And what year was that capped? Do you know? [LB1070]

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DAVE HAACK: I'd say probably six, eight years ago. I don't know exactly. [LB1070]

SENATOR SCHILZ: And do you know (inaudible), you just had me wondering, but can you tell me what it does cost to cap a well? And I suppose it can be different depending on... [LB1070]

DAVE HAACK: Yeah, it's different, but to plug a well, I would say you're probably looking at somewhere between \$20,000 and \$30,000, somewhere in that neighborhood. [LB1070]

SENATOR SCHILZ: Right. And you take care of that? [LB1070]

DAVE HAACK: Right. The company that owns it pays for it. [LB1070]

SENATOR SCHILZ: Unless you walk away and go out of business. [LB1070]

DAVE HAACK: Right. Well, the bonding company would take care of it then, but... [LB1070]

SENATOR SCHILZ: Right. Well, thank you. [LB1070]

DAVE HAACK: You don't that, you know, like I said, as far as the liability insurance, I don't think anybody would come to the state of Nebraska and try and drill a disposal well that didn't have sufficient liability insurance. A million dollars probably wouldn't, you know, for most companies that's hardly anything right now. But I think it might be a little excessive on the commercial disposal well to have a \$5 million liability. There isn't anything there. I mean, there's a couple of tanks and a pump and, you know, like I said, all the groundwater is protected. In this, you know, speaking of the water from 50 to 100 feet, what about the zones that are Fox Hills that are 400 foot. The Oil and Gas Commission, they know where all that water is; they know how far the water levels are so they make sure that you case a well down to any possible fresh-water zones, whether it's the Ogallala or Fox Hills or whatever water zones happen to be in the area. But the way this is written, there's virtually...there might be a few cases, maybe, up in Sioux County where there wasn't hardly any aquifer up there, you might be able to put a disposal well, but in our area there wouldn't...there would be probably no chance of ever being able to put a disposal well in. [LB1070]

SENATOR SCHILZ: Thank you. [LB1070]

DAVE HAACK: The way this is written. [LB1070]

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SENATOR SCHILZ: Senator Hughes. [LB1070]

SENATOR HUGHES: Yes, thank you, Chairman Schilz. Thank you, Mr. Haack, for coming in. So, you said the injection well that was in the confines of Kimball was shut down because it failed an integrity test. [LB1070]

DAVE HAACK: Right, um-hum. [LB1070]

SENATOR HUGHES: But the redundancy of the protections kept the fracking water...or the produced water out of the water supply, is that correct? [LB1070]

DAVE HAACK: Right, yeah, because, like I said, you're injecting water 6,000 foot deep. And if you have a tubing or a...in this case it was a casing below so you cement the pipe and do all the proper plugging procedures on it so there's no water contamination whatsoever. [LB1070]

SENATOR HUGHES: Even though it failed the integrity test. [LB1070]

DAVE HAACK: Right. [LB1070]

SENATOR HUGHES: The fresh water was not contaminated. [LB1070]

DAVE HAACK: No. [LB1070]

SENATOR HUGHES: Okay, thank you. [LB1070]

DAVE HAACK: The fresh water was up above. [LB1070]

SENATOR HUGHES: Right. [LB1070]

DAVE HAACK: But this where the mechanical...you've got to have a packer in the well which packs off any water that go above it. So on this particular case, if you're within...have any kind of a failure within 150 feet of the well bore where the water is actually injected, if you have a failure there or casing...you know, you can go in there and fix it, but the cost would be astronomical. In some cases if you had 7-inch casing you might be able to run down in there with 5.5 casing or something and then put cement around it and repair the well. In this case, we felt that it was too costly to spend that kind of money to put the well together, so we just went ahead and plugged it. [LB1070]

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SENATOR SCHILZ: Thank you, Senator Hughes. Senator McCollister. [LB1070]

SENATOR McCOLLISTER: Yeah, thank you, Mr. Chairman. And thank you for your testimony. And the amount of bond that you carry in Nebraska is also \$100,000. [LB1070]

DAVE HAACK: Yes, um-hum. [LB1070]

SENATOR McCOLLISTER: Is that adequate? [LB1070]

DAVE HAACK: I believe it is, yeah. No, in the 30, 40 years that I've been in the oil business in western Nebraska, where we've gone out and cleaned up locations, I can only think of two in all those years where a company has failed and they had to tap into that bond to clean up the location. There's only been two in all my experience. [LB1070]

SENATOR McCOLLISTER: Okay. Thank you very much. Thank you, Mr. Chairman. [LB1070]

SENATOR SCHILZ: Thank you, Senator McCollister. Any other questions? Senator Schnoor. [LB1070]

SENATOR SCHNOOR: Mr. Haack, there's always...there's all the talk that you're referring to by groundwater contamination and you had said that your well, in fact, failed the integrity test so you shut it down. I guess my question for you is when you're pressure testing these wells, can you tell within any certainty of where that integrity has been broken in the casing? [LB1070]

DAVE HAACK: There's methods of being able to tell where, you know, exactly where that leak occurs, yeah. [LB1070]

SENATOR SCHNOOR: So you can tell whether it's in the level of the aquifer or it's 5,000 feet deep? [LB1070]

DAVE HAACK: Of course, in the level of the aquifer, two or three...there's, in some cases, three layers of pipe, in most cases two. So, typically, if you find a mechanical failure, it's going to be below where that has been cemented in. It won't be where the aquifer is at. It will be below that someplace. [LB1070]

SENATOR SCHNOOR: Okay. But the point is, you can tell where it is. [LB1070]



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DAVE HAACK: Yeah, you can run in there with equipment and tell. [LB1070]

SENATOR SCHNOOR: Okay. [LB1070]

DAVE HAACK: There's ways that they have of doing that. They have ways of repairing casing too. They've got epoxies. Sometimes you can go in there with cement, cement that particular area and then drill through that cement forming a bond. Sometimes it works and sometimes it doesn't, but it can get pretty costly. So in this case we just felt that it would be better to go get a different disposal well and plug that one. [LB1070]

SENATOR SCHNOOR: Okay. Thank you. [LB1070]

SENATOR SCHILZ: Senator McCollister. [LB1070]

SENATOR McCOLLISTER: Thanks again, Mr. Chairman. The \$100,000 you spoke of, is that pretty typical among the states that you operate in? [LB1070]

DAVE HAACK: I only operate in Nebraska. Well, I take that back, in Wyoming, but in Wyoming we only have production on one well and it's a \$20,000 bond. We only have one, so I don't know what the requirements are for multiple levels but that's what they require in Wyoming. [LB1070]

SENATOR McCOLLISTER: So you wouldn't know what the amount is in Kansas or Oklahoma? [LB1070]

DAVE HAACK: No. [LB1070]

SENATOR McCOLLISTER: Okay. [LB1070]

DAVE HAACK: I have no clue on that. [LB1070]

SENATOR McCOLLISTER: Thank you, Mr. Haack. Thank you, Mr. Chairman. [LB1070]

SENATOR SCHILZ: Thank you, Senator McCollister. Any other questions? Seeing none, thank you very much for your testimony. [LB1070]

DAVE HAACK: Thanks. [LB1070]

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SENATOR SCHILZ: Further opposition? Mr. Kriz, good afternoon. [LB1070]

PHIL KRIZ: Thanks for having me here. My name is Phil Kriz, spelled P-h-i-l K-r-i-z. I work with the Evertson Companies which is headquartered out of Kimball, Nebraska. We're the second largest producer in the state of Nebraska with all of our operations in the Panhandle of Nebraska. We don't operate down in the McCook area. But I operated in 17 other states, a couple of foreign countries. I'm a petroleum engineer; I run injection wells every day. I repair injection wells. I understand the mechanical integrity tests and the UIC Program very well. You see in a lot of testimony that there's 600,000 injection wells, Class II, in America; 600 of them in the United States. It's a simple program that works because it's mechanically simple. But I'm here to testify in opposition, predominantly, because of Section 5. Because the way it's written, you know, I feel we should protect all fresh water sources and...but the way this is written, I would be out of business and doing water floods in the Panhandle of Nebraska. I wouldn't be able to...this precludes almost the entire Panhandle of Nebraska. I don't think it's written very well. When I go to permit a well in Nebraska, the first thing that they look at is how deep am I going to put the surface casing to protect water in Nebraska. If it's 200 feet, it's 200 feet; sometimes it's 1,500 feet. And we set surface casing that deep in cement to protect it. And in the Panhandle of Nebraska, I don't know...in the McCook area, it's probably about the same amount, there's been 19,000 wells drilled...19,000. How many problems are we seeing right now? I've got...we've got 600 injection wells working right now in Nebraska. How many problems are we seeing? I have injection wells operating right next to house wells, right next to irrigation wells; and some of those people work for us, live there. Fresh water is very important to everybody in the United States and to us. And our industry has an incredible track record. But one of the things I want to come up and talk to was about Senator Kolowski's question on earthquakes. I don't know if you were there to listen to the state geologist report. I'm not a geologist, but I do generate geological prospects, I work with geologists every day. And the USGS center that monitors earthquakes for the whole world is six blocks from my house. And so I get a lot of coffee shop on the earthquakes and stuff like that, because I come in, I'm a petroleum engineer, and the head of the USGS center pounds my butt for, you know, what the heck is going on and do you believe this, do you believe that. It is causing minor earthquakes in Oklahoma. Our industry understands that. USGS understands that. But the geology in Oklahoma is not the same as it is here in Nebraska. Just like right here outside, the surface geology is not like Estes Park; it's not like California. The geology across the United States is very different with tectonic forces. And so we don't have a lot of earthquakes here. And you can go onto the Web site and monitor earthquakes, it's free, all over the world. There's thousands of earthquakes happening every day. But in Nebraska, you can go look historically, you know, we've been doing injection wells here in Nebraska since the '50s, as long as we've all be alive, pretty much. Some of us have been alive a little bit longer, but for the most part, for the majority of our lives we've been injecting in Nebraska and we don't have earthquakes here. It's not something that we have to worry about. But people are worrying about it in other places and they're worried they're doing...they're creating procedures to deal with this

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now. There's an organization that we heard about, during all the studies, called the States First Initiative. And that's government agencies, predominantly, and industry, they're trying to come up with procedures to monitor and see if we can go and sit there and impact the earthquakes being caused and we found that we can. So we found, through the USGS center, that we can identify where these earthquakes are being caused. We can pretty much dial down to where the wells are. And now we're starting to sit there and dial down...if I reduce the injection rate on this well in Oklahoma from 30,000 barrels a day to 15,000 barrels a day, the earthquakes stop. It is an issue, but people are working on it. I know it's a great way to fear monger people, but it's a problem that our industry is addressing and it's certainly not a problem we have in Nebraska. [LB1070]

SENATOR SCHILZ: Thank you. Any questions? So you...couple things from your testimony, obviously you think you're younger than most of us here (laughter) and the second thing is you're around movers and shakers, you're six blocks away from the earthquake center, so a lot of things going on, moving and shaking around. Anyway, yeah, that went over well, didn't it? Hang on people, it's getting late. So, thank you for your testimony. Any questions? Somebody save me. (Laughter) Anybody? No. [LB1070]

SENATOR JOHNSON: I'm not going to follow that. [LB1070]

SENATOR SCHILZ: Thank you. Further opposition? [LB1070]

JOE KOHOUT: I heard that. (Laughter) Chairman Schilz, members of the Natural Resources Committee, Joe Kohout, K-o-h-o-u-t, appearing today on behalf of our client, The American Petroleum Institute. Much of what I was going to say, in the spirit of what Senator McCollister whispered on the way up, has been...our objections have listed before. I would note that the concerns that were raised by the institute included many of those raised by Mr. Wreath. In addition, the lack of clarity on the liability insurance provision to finally...and I heard some questions about this, Senator McCollister, and we'd be happy to make this available to committee counsel as well, as we do have a...and I've requested it, a list of bonding requirements and other requirements that are available in multiple states and we're happy to make that available. I've requested it while we were sitting there. So I'll forward that to you and committee counsel as soon as I get it. [LB1070]

SENATOR McCOLLISTER: Thank you. [LB1070]

SENATOR SCHILZ: Thank you, Mr. Kohout. Any questions? Seeing none, thank you for your testimony. [LB1070]

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JOE KOHOUT: Thank you. [LB1070]

SENATOR SCHILZ: Further opposition? Opposition? Okay, do we have any neutral testimony? Come on up. Welcome back. [LB1070]

BILL SYDOW: (Exhibit 8) Thank you, Mr. Chairman. For the record my name is Bill Sydow, B-i-l-l S-y-d-o-w. I do live in Sidney, Nebraska, and I'm the director of our Nebraska Oil and Gas Conservation Commission. I appear today in a neutral position to LB1070, but I have five things that I've addressed in the handout. I'll just speak to them a little bit. First of all, you would note from the fiscal note on this that this bill is revenue negative to our commission. I believe it would take a person, of which we do not have now, but a one-day-a week, every week, potentially, to not only initially create a file system, but to maintain a file system. And that's going to be both manual and electronic. So there's a financial issue to our commission. Secondly, the bill, the way I understand it, would require the operator of whether it's one injection well or 50 to have a \$1 million liability insurance in place. So we have over 150 operators with bonds, and Dana Wreath, I think, made a good distinction between bonds and insurance, but bonded operators...about 70 of our operating companies have some...at least one kind of enhanced oil recovery injection well or saltwater disposal well. This bill is not specific as to a form of this insurance, and so Mr. Cavanaugh brought up about liability insurance for automobiles. You know, I don't think there's a state agency that actually collects insurance certificates. It's up to the operator of that vehicle to be able to produce some kind of a proof of insurance if he gets stopped or is involved in a collision. And so that's how that's handled. But I don't believe any agency actually collects and maintains those certificates. Further, the certificates would really be ephemeral, because it's going to roll from year to year. And so I see this will be throwing away one and putting another one in. It does not add to the commission's effort to be a repository to regulate and collect petroleum engineering data or geological data. Third, we have not polled any companies to see what kind of liability insurance that they might carry. But I personally believe that it's up to business to determine how much they're going to carry. And I don't bet very often, but I think I'd bet \$100 that every one of those 150 companies might have a million dollar liability policy right now. I don't know that, and I'd probably lose my \$100 on somebody, but I think everybody carries insurance liability. And further, this liability doesn't protect the state, I don't think. If someone wanted liability insurance to be in place, I think it should be the surface owner or, in fact, the mineral owner when they sign the oil and gas lease. So something to think about there. My fourth point concerning LB1070 is, there is a...concerning 57-906(4), it speaks about issuing permits for facilities. The fact is, we don't issue permits for the facilities themselves, we issue permits for an individual well. We have some required operating conditions for the surface facility and...but we really don't permit that. So that's kind of a wording thing there. And then in the last part of that new section, there's a definition of wastewater and it says, quote: the salt water substance generated as waste from an injection well. And I think that could be better reworded, I think, well, the bottom line is that injection wells don't create waste or

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fluids, they accept fluids. And so that definition might be a little...need to be wordsmithed. Fifth, on the very back of your handout, there's three maps. And those maps are generated based upon the database from the Department of Natural Resources. And I've had some consultation with both our Nebraska geological survey and our Nebraska Department of Environmental Quality. And the depth restrictions in that last section give me great heartburn for two reasons. One, only the enhanced oil recovery injection wells are discussed in there; there's nothing to do with saltwater disposal wells in that section. Further, the depth restrictions of 50 feet to the water table or 100 feet deeper effectively wipes out the entire state of Nebraska. We've got so much groundwater that we already protect when we drill every well with surface casing and...but the way that that wording is, it puts, basically, the entire state of Nebraska off limits and so that's what's shown in red with the backup on the other ones. Just say real close, about one-third of our daily oil production in Nebraska is from water floods. We produce 7,800 barrels a day. So we're probably around 2,400...2,500 barrels a day from water floods. That's how you get more oil recovery out of the ground as part of the conservation. We do that utilizing 400 EOR injection wells. And we believe that there's going to be a lot more opportunity, especially in southwest Nebraska where we've had a lot of drilling, to have additional water floods. This would negatively impact certainly our commission because in the future we're going to lose some conservation tax, but it's also going to affect the state and county treasuries because water floods and these oil resources that are developed are counted as real estate, they're taxed as real estate in counties. And in fact, in Hitchcock County in the last ten years, we've actually increased...the industry has increased the value of their tax base by about \$150 million. That's a lot of money. And this would be of great concern to me. I'd be happy to answer any questions. [LB1070]

SENATOR SCHILZ: Thank you, Mr. Sydow. Any questions for the director. Seeing none, thank you for your testimony, appreciate it. Further neutral testimony. Welcome back. [LB1070]

STAN BELIEU: Good to be back. For purposes of the record, my name is Stan, S-t-a-n, Belieu, B-e-l-i-e-u. And I'm going to alter my script here based on previous testimony. One of the things I did want to point out though, in the EPA comprehensive review of our program one of the things they cited as one of the strongest things that we do, so we have a very rigid permitting process and we follow that process. Everything in our rules and regulations and the code of federal statutes lays out exactly the steps that are involved. So it's very methodical; it's very easy to do. I'm a little concerned with LB1070 when it talks about water depths because on those permits that we issue, it's either Director Sydow's name, the commissioner's name, or my name on those. And where those levels could fluctuate and where there's ambiguity in those levels, boy, that's going to be difficult to make permit determinations. And in fact, well, to be safe you probably wouldn't issue a permit on something like that. The other thing that the code of thermal regulations talks about, it does talk about bonding, but it doesn't talk about liability. So the liability part of it...you know we've had plenty of discussion on that, it's a good business practice,

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but it's clearly out of the scope of the underground injection control program and is something that is just not addressed in that. So that's all I had. [LB1070]

SENATOR SCHILZ: Thank you, Mr. Belieu. Any questions? Seeing none, thank you for your testimony. Any further neutral testimony? Neutral testimony? Seeing none, Senator Haar, you're welcome to close on LB1070. [LB1070]

SENATOR HAAR: (Exhibit 9) Well, Senator Schilz, from a really old man, write yourself lots of notes. (Laughter) Well, this is the last time I will ever testify as a senator before the Natural Resources Committee and that's sort of some mixed feelings, but here I am. First of all, it sounds like Section 5, I'm convinced, Section 5 is not ready for prime time, but I want to talk about the other. Colorado has a \$1 million liability insurance requirement. I don't know if they require proof of insurance or how they do that part of it, but they require a million dollars worth of insurance. And some states like Ohio and Texas also have that kind of requirement. I'm not going to have you hand this out, but I'll supply it to the committee because I've written...I made notes all over this. This is an article called "Fracking Boom Linked to Increasing Wastewater Spills" and it's from an insurance journal called Claims Journal and this is from September 9, 2015. And, you know, it has some journalism around it, but the AP talked with all of these states, they obtained data from regulatory agencies so we could have our research, you know, if you don't want to take these as fact we could have our Research Office do the same thing. But this came from regulatory agencies in Texas, North Dakota, California, Alaska, Colorado, New Mexico, Oklahoma, Wyoming, Kansas, Utah, and Montana. And these are the primary oil production states. But according to the AP data that they collected, between 2009 and 2014, more than 180 million gallons of wastewater were spilled in incidents involving ruptured pipes, overflowing storage tanks, and other mishaps, or even deliberate dumping. There were 21,651 individual spills. And these numbers are incomplete because many releases go unreported. And it made a note here, it said the extent of the land or water contamination is unknown because state and federal regulators make no such assessments. Accidents range from the mundane to the freakish. In 2010, a storage tank near Ardmore, Oklahoma, overflowed after a snake slithered into a panel box and blew a fuse. Most spills are caused by equipment malfunction or human error according to state reports reviewed by the AP. In other words, spills happen. And also from this article it says: Oil and gas developers said they have everything to gain from stopping spills which cost them money for cleanup and soil restoration. No doubt about it, oil companies, gas companies, whatever, don't want to contaminate. But in that time period, 21,651 individual spills. And then we heard...previous testifiers say he'd bet \$100 that everybody right now has that kind...has liability insurance. Someone else said they ought to have; someone else said it's good business practice, but we have no requirement for liability insurance. And so, again, to end by quoting the great communicator who said--trust but verify. Spills happen. We should have a requirement for liability insurance in our laws. And I would certainly be willing to work with you because,

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Senator Schilz, I think there's some really good points in the bills as you have as well. So we'd be more than happy to work with you on this issue. So with that... [LB1070]

SENATOR SCHILZ: Any questions? I think this is the second time you've invoked a quote by Reagan and I never expected it the first time and I didn't expect it this time. [LB1070]

SENATOR HAAR: Hey, I will take good quotes wherever I find them. And I must admit, he was such a superb communicator. I always... [LB1070]

SENATOR SCHILZ: You must really want your bill out. (Laughter) [LB1070]

SENATOR HAAR: I didn't say I voted for him. [LB1070]

SENATOR SCHILZ: I'm sorry. Are there any questions? Seeing none, thank you very much, Senator Haar. [LB1070]

SENATOR HAAR: Thank you very much for your patience. [LB1070]

SENATOR SCHILZ: And that will close our hearing on LB1070 and we will move on to LB1100. I'll turn it over to you, Vice Chair Friesen. [LB1070]

SENATOR SCHILZ: Good afternoon, Senator Friesen and members of the Natural Resources Committee. My name is Ken Schilz, it's spelled K-e-n S-c-h-i-l-z, and I represent the 47th District. And you know as we've been talking about all the other bills and the study and everything like that, I wanted to bring up a bill mostly for conversation, you know, to be had within the industry itself. And, you know, having the opportunity to drive four hours back and forth to home, I think a lot about ideas and what could possibly be put on paper. And I was...as I was going, I was thinking, you know, promotion of the industry, whether it's done through a commission like Oil and Gas Commission that I understand that they look at the promotion a little different than this, but I think that any industry that's out there deserves to have somebody to advocate and to promote on their part. Associations can do it, and I know they've got some, and other entities can do it as well. And I think it's important that these folks are able to efficiently and effectively get their message out to everyone that's out there so that we all know where they're coming from, what's going on, and how to sift through all of the information that comes in. And so LB1100 is loosely based on the Corn Board checkoff statutes and, obviously, I admit that would need some work if the committee is even interested in pursuing it. And as I said before, I'm more interested in letting the industry figure this part out. But in 1978, the Legislature passed the Corn Resources Act to establish a corn checkoff which is now set at a half

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of a cent per bushel of corn. And the checkoff is collected to allow the development of and industry participation in research, education, market development, and promotion programs to enhance profitability. This bill is based on the statutes that created the corn checkoff, but changes were made to target the oil and gas industry rather than the corn industry. LB1100, the Petroleum Education and Marketing Act would establish the Petroleum Education and Marketing Board to separate these interests from the regular function of the Nebraska Oil and Gas Commission. It defines qualified producers and their associations for purposes of the act, as well as establishing the board as a nonprofit member corporation much like the Corn Board. Membership of the board would consist of five representatives put forth by qualified associations. At the moment, the current construction would consist of three members appointed by, and as of yet unidentified, Independent Oil and Gas Association and members appointed by the Nebraska Petroleum Council. Members must be Nebraska residents with at least five years' experience in the oil and gas industry. Board terms would be three years with no salary or reimbursement, but travel expenses. And the board shall operate with the funds derived from a voluntary assessment or checkoff consisting of no more than .05 percent from gross revenue of the oil and gas produced in Nebraska. The collection and application is further outlined in the bill in a similar fashion to the corn checkoff that the board may pursue these funds to further its function and lays limits in the use of the funds to the mission of the petroleum education and marketing, as well as funding the function of the board and its staff. Once again, this bill would likely take quite a bit of time to try to get ready. I'm not asking the committee to do anything on it. I just wanted to...while we had the opportunity to have everybody in the room, float some of these ideas and then it's up to folks behind me to decide how they want to deal with this. So, we don't have to take a whole lot of time here if we don't want to...(laughter). So with that I will ask you if you have any questions. [LB1100]

SENATOR FRIESEN: Thank you, Senator Schilz. Are there any questions from the committee? Senator Hughes. [LB1100]

SENATOR HUGHES: Thank you, Vice Chairman Friesen. Senator Schilz, I know you're involved in agriculture now and crop production. A lot of the promotion checkoff boards, if you will, a good portion of their efforts are derived at marketing. [LB1100]

SENATOR SCHILZ: That's right. [LB1100]

SENATOR HUGHES: Do you think that's something that would be necessary in the oil industry? [LB1100]

SENATOR SCHILZ: You know, and as I sit and look at it, if we're talking about going out and finding new markets and things like that, maybe not necessarily. But there could be other things.



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I mean, one of the biggest problems that the Nebraska oil industry has is, you know, they get lower prices because there's no efficient way to get the oil moved from here some place else. Most of the pipelines or other conveyances are filled already and so it's hard to get on there. So with some money that could go towards working on those kind of solutions, that's the kind of marketing stuff that you'd be talking about in this case. And there could be other things. You know what local products could be made that you could use to process some of that oil right here in Nebraska and maybe not have to haul it off and add value back to it right here. So it could be things like that. [LB1100]

SENATOR HUGHES: Okay. [LB1100]

SENATOR SCHILZ: But that's...there's other people that have lot better ideas on what's possible in that realm. [LB1100]

SENATOR HUGHES: Thank you. [LB1100]

SENATOR FRIESEN: Thank you, Senator Hughes. Senator McCollister. [LB1100]

SENATOR MCCOLLISTER: Yeah, thank you, Vice Chair. Would this be similar to the dry bean checkoff? (Laughter) [LB1100]

SENATOR SCHILZ: Let's hope not. (Laughter) At least not some of the conversations we've had about it anyway. [LB1100]

SENATOR FRIESEN: Thank you, Senator McCollister. Senator Schilz, I was just wondering a little bit the same thing; I mean, do you think there will be pushback from the Dry Bean Commission since you used the corn growers statute? [LB1100]

SENATOR SCHILZ: You know, it's really hard to tell, Senator Friesen. Thank you for the question. [LB1100]

SENATOR FRIESEN: Thank you, Senator Schilz. No more questions? Thank you for your opening. Are there any proponents who wish to testify on this bill? No proponents? I don't think we have any letters of support. Any opponents wish to testify? Welcome. [LB1100]

JANE KLEEB: Hi, Senators. Jan Kleeb, K-l-e-e-b, live at 1010 North Denver in Hastings and I'm representing Bold Nebraska. We are opposed to the creation of this new layer of government

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bureaucracy, if you will. We don't think there should be winners or losers when it comes to energy. A lot of conservatives often use that line. And we think that the oil and gas industry has plenty of associations that do the promotion and education of everything that is wonderful in their field. We have two of their lobbyists with us today, API, as well as the Nebraska Oil and Gas Association. So we don't see that it's necessary to create an agency just for oil and gas. We actually have already the Nebraska Energy Office which is supposed to be promoting and educating Nebraskans about all forms of energy, so it seems that if the oil and gas industry doesn't think that they're being promoted enough, they should go talk to that executive director. And we think that unless there's going to be a similar agency for wind and solar and biofuels and renewable energy, then it's unfair to those forms of energy as well. So we're opposed to the creation of this. We deeply appreciate Senator Schilz's bill to separate the promotion of oil and gas from the actual regulation. We think that that's needed and an inherent conflict of interest, but we would be opposed to this. And I'll just use the remaining time just very quickly. I will send to the committee some well inspection history reports that the Oil and Gas Commission of Nebraska sent to us at request. It will show you the complete lack of transparency and information in these reports. The only thing that these reports do is tell you the location of the well, as well as the dates of an inspection. It doesn't give you any information on the contents of the baseline water testing; it doesn't give you...if there was a problem, how did it get fixed and what was the problem. It's literally just a listing of dates. Thank you. [LB1100]

SENATOR FRIESEN: Thank you, Ms. Kleeb. Any questions from the committee? Senator Kolowski. [LB1100]

SENATOR KOLOWSKI: Thank you, Chairman. Ms. Kleeb, is there a separate listing somewhere that would list all the accidents that happened at wells? Did you ask for that compared to what they sent you? [LB1100]

JANE KLEEB: We did ask for that. And we've looked for that information and we have not been able to find that information on their Web site. So we don't have that. [LB1100]

SENATOR KOLOWSKI: They responded that that doesn't exist. [LB1100]

JANE KLEEB: They responded that these were the reports that they prepared for us. [LB1100]

SENATOR KOLOWSKI: And no others exist. [LB1100]

JANE KLEEB: I have no idea, because I don't have access... [LB1100]

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SENATOR KOLOWSKI: You didn't ask that question? [LB1100]

JANE KLEEB: We asked for reports of the fracking wells...injection wells in our state and this is what we were given. So if they have incidents of reports, it's not publicly available from what we've seen on their Web site and it certainly wasn't in these reports that they gave us. [LB1100]

SENATOR KOLOWSKI: But the question hasn't directly been asked then--do you have a list of accident reports somewhere? [LB1100]

JANE KLEEB: I thought we asked that question, but maybe I wasn't specific enough to them. [LB1100]

SENATOR KOLOWSKI: Just probing a little bit. [LB1100]

JANE KLEEB: So I don't know. But I can tell you from a public perspective it's not on their Web site...or not anywhere that a citizen can see. [LB1100]

SENATOR KOLOWSKI: Sure. Thank you. [LB1100]

JANE KLEEB: Yeah. [LB1100]

SENATOR FRIESEN: Thank you, Senator Kolowski. Any other questions? Thank you, Ms. Kleeb, for your testimony. [LB1100]

JANE KLEEB: Thanks. [LB1100]

SENATOR FRIESEN: Any other opposition? Welcome. [LB1100]

CHRIS PETERSON: Mr. Chairman, members of the committee, my name is Chris Peterson, C-h-r-i-s P-e-t-e-r-s-o-n, and I'm a registered lobbyist for The Nebraska Petroleum Producers Association. Would like to start and first say thank you to Senator Schilz for introducing this legislation. Although we are testifying in opposition to it, it is an innovative approach to address the potential, maybe, down the road, future desire on behalf of individuals who engage in this industry to have some marketing or education or...along the lines of what Senator Schilz described in his opening, working to address access in markets, specifically, to be able to move the raw product. So we appreciate him investing time and effort during his drive to and from Ogallala on thinking about a piece of legislation like this. But nonetheless, we don't think it's

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necessary today. We also note that if the board was formed, it does have an assessment authority which would come back on the industry, and at today's price of a barrel of oil and given the fact that the industry already pays an assessment to fund the conservation tax to fund the Oil and Gas Commission, roughly, I think that number is \$900,000 a year is assessed against oil production. And LB1082, the fiscal note, proposes that that would increase by about 33 percent for another \$300,000 that the industry would pay if that bill was passed as in its current form. With that I'll wrap up and just say for the record this is actually the second public hearing that Jane Kleeb and I have testified on the same issue...on the same side of an issue, so it's not the first if you were wondering. (Laughter) [LB1100]

SENATOR FRIESEN: Thank you, Mr. Peterson. Any questions from the committee? Seeing none, thank you for your testimony. [LB1100]

CHRIS PETERSON: Thank you. [LB1100]

SENATOR FRIESEN: Is there any other opponents wish to testify? [LB1100]

TOM BAKER: Thank you, Committee Chairman Schilz and members of the committee. My name is Tom Baker, T-o-m B-a-k-e-r. I think she remembers my name. I'm here in opposition to this bill, but I don't have any heartburn. I'll tell you...I have a reason why. I was on a committee when we...and I was in the Legislature we tried to get rid of some of these committees and boards and things that hadn't met for ten years, and Dave Landis, I think, was Chair, but we put together this list and lo and behold a committee that hadn't met for ten years, somebody popped out of the woodwork, I guarantee you, and said we don't want to eliminate this committee. But here's my rationale. I'm a long-time member of the old Nebraska Independent Oil and Gas Association which was formed by a group in Kimball and our secretary/treasurer was Carma Webb. Well, she ran into health problems and our membership dwindled, our meetings kind of went by the wayside. It was mentioned in your bill, actually, the Nebraska Independent Oil and Gas Association. We had a lobbyist, Darwin Pierson. We were fairly active, but over the ups and downs of the oil business it just faded out and our leadership left, some of the people involved with it had health issues. So this bill here, I would say we could replace what you're trying to do here with the Nebraska Petroleum Producers Association. We have 75 members. It includes people from all the way from eastern Nebraska to west; landowners, royalty owners, and so on. So I think, so that you don't get any heartburn, I think we're...you prodded us into action here; we're going to get this done. We don't really need this bill. I appreciate your effort and it did get us moving. I've been sitting back there for three hours now and I have a senator who told me the shortest was the best and I've been on that side of the table, I agree. A couple of notes though after sitting through all these things, one of the largest land and largest royalty owner in the state of Nebraska would be who? It is the state of Nebraska through the Board of Educational Lands

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and Funds. Nebraska Board of Educational Lands and Funds, of course, receives these royalty payments from all the state school land when most of it is in the western part of the state. They get the royalty of it. It goes through the Board of Educational Lands and Funds to the permanent school trust fund which is then dispersed statewide on a per pupil basis. So what affects a working interest owner or royalty owner also affects the state of Nebraska's income stream through the Board of Educational Lands and Funds which is something that a lot of people don't realize that. Let's see, a couple of other random notes: oh, as far as education, I did serve on the Nebraska Oil and Gas Commission for a number of years. And it would be surprising how many people would ask you to speak to the issues just as a commissioner. And I remember speaking to a group in Seward, of all places, a group of landowners in Seward asked me to come down. And if you recall, there was a land play in eastern Nebraska, I'm thinking back in the early '80s, where they drilled two very deep wells, and somebody behind me could probably help me with this, but I believe it was...they were 30,000-foot deep wells and they swept through the eastern part of the state and leased all this good productive land for oil and gas. And most of these farm people down here had no idea what an oil and gas lease was. As I recall, it was a Rotary group in Seward asked me to come down and speak and I thought there would be 8 or 10 people there. Well, the place was packed because they had no knowledge of oil and gas leases and the process and so on. So we...the commission does have an educational facet to it also. I've spoke to groups as far west as Chadron; I've done that twice. So there is a benefit to...it's not so much promotion as I consider it just information. With that I'd be glad to...I'm not sure I want to open myself up to questions to this group, because I'm the last person to keep you out here. But I will, if you have any questions, I'd be glad to answer them. [LB1100]

SENATOR FRIESEN: Thank you, Senator Baker. [LB1100]

TOM BAKER: Thank you. [LB1100]

SENATOR FRIESEN: Any questions from the committee? I see none. [LB1100]

TOM BAKER: Thank you. [LB1100]

JOE KOHOUT: (Exhibit 1) Vice Chairman Friesen and members of the Natural Resources Committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of our client The American Petroleum Institute. I would just take...I would note that on page...that we submitted a letter on LB1082, on the last page of that letter we made reference to LB1100. I would ask that those comments be made part of the record on LB1100 as well. We do provide some level of...one of the concerns the institute has, obviously, is the creation of a new board. But moving away from the Oil and Gas Conservation Commission is a concern. But we have provided, with some guidance, those comments to provide some findings at the front end of any

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sort of legislation that the committee may look at on this issue. So, but I just take a moment to say that unlike Mr. Peterson, this is the first time that I have ever appeared on the same side of a piece of legislation as Ms. Kleeb. (Laughter) [LB1100]

SENATOR FRIESEN: Thank you, Mr. Kohout. Are there any questions from the committee? [LB1100]

JOE KOHOUT: One other thing I would just mention, Senator McCollister, I did already get that PDF and have forwarded that to your e-mail account. [LB1100]

SENATOR McCOLLISTER: Thank you. [LB1100]

SENATOR FRIESEN: Thank you for your testimony. [LB1100]

JOE KOHOUT: Thank you. [LB1100]

SENATOR FRIESEN: Any others wish to testify in opposition? Seeing none, are there any who wish to testify in a neutral capacity? Seeing none, do you wish to close? [LB1100]

SENATOR SCHILZ: Waive. [LB1100]

SENATOR FRIESEN: Senator Schilz waives closing. Will close the hearing on LB1100. [LB1100]

SENATOR SCHILZ: Thank you, folks; everybody have a good day. [LB1100]