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Natural Resources Committee  
January 31, 2008

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[LB986 LB1061 CONFIRMATION]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, January 31, 2008, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1061 and LB986 and gubernatorial appointments. Senators present: LeRoy Louden, Chairperson; Carol Hudkins, Vice Chairperson; Tom Carlson; Mark Christensen; Annette Dubas; Deb Fischer; Gail Kopplin; and Norman Wallman. Senators absent: None. []

SENATOR LOUDEN: Thank you, and good afternoon everyone. We'll start the hearing from the Natural Resources Committee and good afternoon, everyone. We're starting a little bit late but that was mostly because of equipment problems but we will certainly catch that time up with about the first or second testifier. (laughter) Let me introduce the senators up here. The first senator to my right is Senator Gail Kopplin from Gretna; next to he is Senator Tom Carlson from Holdrege; and on the end is Senator Norm Wallman from Cortland; to my left is Senator Deb Fischer from Valentine; and next to her is Senator Mark Christensen from Imperial; on the end there is Barb Koehlmoos, committee clerk; and to my right is Jody Gittins, the committee counsel. We have two pages today, the one...a young lady is Kristen Erthum from Ainsworth. She's a sophomore at Doane College. The other young man is Ryan Behrns and he's a University of Nebraska, Lincoln, business, sophomore. Thank you for being here today. We need the extra help. With that I'd ask all of you to turn your telephones to silence or something so they don't make any disturbance and those wishing to testify on a bill should come to the front of the room when the bill is to be heard. As someone finish testifying the next person should move immediately into the chair at the table. If you do not wish to testify but would like your name entered into the official record as being present at the hearing, there's a form by each door that you can sign. This will be part of the official record of the hearing. This year we are using a computerized transcription program and it is very important to complete the green sign-in sheets for testifiers prior to testifying. They're on the tables by the doors and need to be completed by all people wishing to testify including senators and staff introducing bills and people being confirmed. If you are testifying on more than one bill, you need to submit a form for each bill. When you come up to testify place the form in the box by the committee clerk. Do not turn the form in before you actually testify. Please print and it is important to complete the form in its entirety. If our transcribers have troubles...have questions about your testimony they use this information to contact you. As you begin your testimony state your name and spell it for the record, even if it's an easy name. Please keep your testimony concise and try not to repeat what someone else has covered. If there are large numbers of people to testify it may be necessary to place time limits on testimony. If you have handout material, give it to the page and they will circulate it to the committee. If you do not wish to...if you do not chose to testify you may submit comments in writing and have them read into the official record. No displays of support or opposition will be tolerated, vocal or otherwise. And if you need a drink while you're

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testifying, please ask the page. With that we'll begin. The first is confirmation hearings on the Environmental Quality Council and we would ask Mr. John Baker, the first person to be confirmed to the council, to please come forwards. [CONFIRMATION]

JOHN BAKER: Excuse me. I just had some knee surgery, little stiff. [CONFIRMATION]

SENATOR LOUDEN: What, have you been chopping ice or something out there?  
[CONFIRMATION]

JOHN BAKER: Oh, just getting old. [CONFIRMATION]

SENATOR LOUDEN: Could have fooled me. [CONFIRMATION]

JOHN BAKER: Eat too much. [CONFIRMATION]

SENATOR LOUDEN: (Laugh) Go ahead and tell us a little bit about yourself.  
[CONFIRMATION]

JOHN BAKER: (Exhibit 1) Well, let's see. I'm president of a consulting engineering and architectural firm in Scottsbluff. We also have a branch office in Wyoming. Been in business for coming up on 31 years. We have 19 employees. We do a...mostly our business, most of our business is engineering. Work with a lot of municipalities and local governments on issues directly related to the department, wastewater treatment, water quality issues, drinking water. We also get involved in landfills and a little bit of livestock waste management permitting so we're...I personally am quite familiar with the department and do work with them or my staff does on a very regular basis. They are probably one...probably the best department in the state that I've ever worked with. I think they're probably the most professional and extremely knowledgeable and it's really a great organization. I worked with several other states and this one is exceptional and I think that they work in a spirit of cooperation and assistance as opposed so much as being policemen. And I think that's very admirable and I think the department has grown and really improved in that order especially under Director Linder and it's great that we have a department like that in Nebraska and that's my story. And as I said, I've been working with them for 30 years so I think I know a little bit about it and I hold a position of professional engineer on the council. That's a designated slot and you know, I try to keep my mouth shut on engineering matters (laugh) but sometimes during the council meetings I, you know, I don't want to come across as the engineer expert so I try to act more like a citizen as opposed to that, so. But I really enjoy working for...I mean, excuse me, serving on the council as it's near and dear to my heart, the issues that they deal with. And, you know, I'm also concerned about the balance we must keep between the environment, protecting it and industry and especially, you know, things like livestock which is a great part of our economy and I think it's a great job and I enjoy it.  
[CONFIRMATION]

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SENATOR LOUDEN: Okay. Questions for Mr. Baker? Senator Fischer.  
[CONFIRMATION]

SENATOR FISCHER: Thank you, Chairman Louden. Thank you for your service, Mr. Baker, on the...your past service on the council. I do have a couple of questions. I see that you've had four articles published in national magazines regarding environmental issues? Could you... [CONFIRMATION]

JOHN BAKER: How did you know that? [CONFIRMATION]

SENATOR FISCHER: It's on your forms. We know everything. (Laughter)  
[CONFIRMATION]

JOHN BAKER: Oh, okay. Sorry. (Laughter) [CONFIRMATION]

SENATOR FISCHER: We just know everything. [CONFIRMATION]

JOHN BAKER: Yeah, that's true. I have had, yes, national... [CONFIRMATION]

SENATOR FISCHER: I was just wondering what those articles were about. If you could just give us a little short synopses. [CONFIRMATION]

JOHN BAKER: I believe most of them were on landfills. And when they...if you recall, when they passed the new landfill regulations 15 years ago, there was a lot of controversy and a lot of hair pulling. And we got involved working with a lot of small communities that were faced with tremendous costs and problems around, as you all have heard and know. And we developed some, we thought, unique solutions in regional landfills in the handling of waste and the...things like baling waste, etcetera, that we thought were unique solutions to small communities in Wyoming and Nebraska. One of those might have been, I haven't looked at that in a while, on wastewater irrigation. We've done quite a bit of work with that taking...it's not anything to the feedlot folks. They do that all the time, but municipal irrigation with wastewater, we've done quite a bit of that with small communities. We find it's a very good solution to their problem. [CONFIRMATION]

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

JOHN BAKER: Yes, ma'am [CONFIRMATION]

SENATOR LOUDEN: Other questions for Mr. Baker. Senator Wallman.  
[CONFIRMATION]

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SENATOR WALLMAN: Thank you, Senator Louden. Yeah, John, do you also recommend like larger cities, Omaha, Lincoln, sludge removal? You know, out of the... [CONFIRMATION]

JOHN BAKER: We don't really get involved with any large cities, no. Probably the largest city (laugh) we work for is Scottsbluff and we've done some work for...a little bit for North Platte and but no, we don't do any work back east here. [CONFIRMATION]

SENATOR WALLMAN: Okay. Thank you. [CONFIRMATION]

SENATOR LOUDEN: Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Senator Louden. John, I got two questions. You've been in Nebraska a long time. What brought you here in the first place? [CONFIRMATION]

JOHN BAKER: Oh, it's the quality of life, sir, and my wife. (Laughter) [CONFIRMATION]

SENATOR CARLSON: In that order? (Laughter) [CONFIRMATION]

JOHN BAKER: Well, a combination. I'm originally not a native of Nebraska. I actually grew up in Virginia, went to college at Virginia Military Institute and I met my wife. She's from Scottsbluff, and she was teaching school in Colorado Springs. I was stationed there at Fort Carson, you know, I was in the Army. And we met there and I would come up to Scottsbluff, you know, for holidays. Fell in love with the place and didn't want to raise a family in Denver, you know, and so 31 years later, here I am. (laugh) Started my own firm from scratch and, you know, eked out a living. [CONFIRMATION]

SENATOR CARLSON: Thank you. Second question, tell us a little bit about the water industry service award. [CONFIRMATION]

JOHN BAKER: Oh, that's an award just that the local, AWWA state organization, Award Water Works, that stands for American...you know, they have a state local chapter, gosh, years ago gave me an award for the work I'd done in small communities helping them deal with the regulations and putting in control systems, had a lot to do with it. And it was...well we were first dealing with computers to control water systems and we were setting up laptops to do this with which was, at the time, something kind of new and different, if I remember right. That was some time ago. [CONFIRMATION]

SENATOR CARLSON: Okay. Thank you. [CONFIRMATION]

JOHN BAKER: Thank you. [CONFIRMATION]

SENATOR LOUDEN: Other questions? Thank you for coming from Scottsbluff, John, to

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do this... [CONFIRMATION]

JOHN BAKER: Well, my pleasure. [CONFIRMATION]

SENATOR LOUDEN: ...and I know, yeah, Baker and Associates is quite a reputable firm in Scottsbluff. I go to Scottsbluff pretty regular, so. [CONFIRMATION]

JOHN BAKER: You should stop in and see us. [CONFIRMATION]

SENATOR LOUDEN: Yeah, I'll have to do that sometime. [CONFIRMATION]

JOHN BAKER: We're in the old post office building. It's a...we restored it, you know, the old building there. It's a national historic landmark. We're quite proud of it. I mean being...having an office in a national historic landmark and please stop by sometime and visit with us. We've have had, oh, quite...you people...John Craig comes to see us. There's a good story about Bob Kerrey involving that one. He was a senator. I haven't got time right now to tell everybody but that had to do with the postal service and us getting that building restored and he had a hand in it and it's quite an interesting story but... [CONFIRMATION]

SENATOR LOUDEN: Yeah, we don't want to hear that. [CONFIRMATION]

JOHN BAKER: You don't want to hear that. [CONFIRMATION]

SENATOR LOUDEN: Yeah, we don't want to hear that. (Laughter) [CONFIRMATION]

JOHN BAKER: Well, anyway, it's...I'm not talking about political parties here. I'm just talking about, you know, somebody that helped us out so. [CONFIRMATION]

SENATOR LOUDEN: Very good. Thank you for your testimony. [CONFIRMATION]

JOHN BAKER: Is that it? [CONFIRMATION]

SENATOR LOUDEN: That's it for you. [CONFIRMATION]

JOHN BAKER: No tough questions, huh? [CONFIRMATION]

SENATOR LOUDEN: Yeah, the tough questions. Now, we have to see if there's going to be some other people that will shoot you. [CONFIRMATION]

JOHN BAKER: Well, thank you very much. I enjoyed being here. I always love to come to Lincoln and like to come in this building and I wouldn't miss being here out of respect for the Legislature and you people. You do a great job. Thank you. [CONFIRMATION]

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SENATOR LOUDEN: Thank you. We appreciate that. Is there anyone wish to testify in favor of the confirmation of John Baker? Anyone wish to testify against the confirmation of John Baker? Anyone testifying in neutral position? If not, I see none, so that will end the testimony on the confirmation of John Baker. Next we will have the confirmation of John Turnbull. Mr. Turnbull. [CONFIRMATION]

JOHN TURNBULL: Good afternoon, Senator Louden and members of the committee. [CONFIRMATION]

SENATOR LOUDEN: Good afternoon. [CONFIRMATION]

JOHN TURNBULL: Glad to be here today. I presume you'd like me give you a short rundown of my background. [CONFIRMATION]

SENATOR LOUDEN: Tell us all about yourself. [CONFIRMATION]

JOHN TURNBULL: (Exhibit 2) All about, okay. Well, went to grade school in Jefferson County, Fairbury, and you probably noticed on my resume' that I went to high school in California so that was because of the drought in the '50s and the farm would only support so many people so some of us left. Back to the University of Nebraska with a degree in agronomy in 1966. Spent three years active duty, U.S. Army, as a helicopter pilot. Then went to work in private industry managing turf grass production farms in Seattle area and Denver area and then was lucky enough to get hired at Tri-Basin NRD in 1975 as a general manager. Spent two and a half years there and I spent the last 30 years in York, Nebraska, as the manager of the Upper Big Blue Natural Resource District. In addition to managing NRDs, I've served on several state appointments from various governors. One was the boundary commission, appointed to that by Governor Kerrey and dealt with Missouri boundary problems and Iowa boundary problems. That was in the late '80s and I also spent time on the state solid waste management planning group that John Baker just talked about a little bit, and that effort in early '90s of consolidating landfills across the state of Nebraska. That was something I had never dealt with before and that was interesting work. Then I've spent four years on the Task Force in Agriculture and Natural Resources Education and I'm currently on the Water Policy Task Force along with you, Senator. I've been on the Environmental Quality Council since July of 2006 so just did a one-year term and then asking to be reappointed now. So that's a little bit about my background. I've enjoyed the work on the Environmental Quality Council. It's a variety of subjects that we deal with and many of them I haven't dealt with in the past so I have to get back in the books and try to learn those things and it's good working with the department. Mike Lindner, the director, and the staff, worked with them on water quality issues over the years through NRD work so know several of the staff and know how they operate. And I appreciate the opportunity to have served on the council for the first time and would like to do it again.

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[CONFIRMATION]

SENATOR LOUDEN: Thank you. Questions for Mr. Turnbull? I guess you...oh, there we finally got one. Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Senator Louden. John, in your opinion, what's the biggest water challenge presently in Nebraska? [CONFIRMATION]

JOHN TURNBULL: Water quantity. [CONFIRMATION]

SENATOR CARLSON: What's the answer? (Laughter) [CONFIRMATION]

JOHN TURNBULL: I have argued that with lots of people. I don't know that we've come up with the answer yet. (laugh) Water quantity is certainly the biggest challenge and we've got...but we've got to keep our mind on water quality while we're working at it. How do we balance it out with everybody? How do we be fair? That's not something we're going to solve this year. Been working on it for 30 myself so. [CONFIRMATION]

SENATOR CARLSON: Thank you. [CONFIRMATION]

SENATOR LOUDEN: Other questions? Why I agree that water, I said when I came down here, I think, be nearly six years ago now, why I said then that was water was our biggest issue and it hasn't changed or let up since then and I don't see anything in the foreseeable future to make it any different. So I think it's going to be very important that when you stop and think Nebraska has about, oh, what, probably about two or three major resources but one of them is water and one of them is our ag products and those that go hand-in-hand and they'll certainly have to be protected so. [CONFIRMATION]

JOHN TURNBULL: Certainly. When I first started at Tri-Basin in Holdrege, Russ Edeal from Loomis was the chamber of the board and I had been there about four or five weeks. I started in the middle of the summer. He came in my office one day and handed me the final reading copy of LB577 which was the first version of the Nebraska Groundwater Management Act, and he says, you might want to read this. I think you'll be working with it for a while. (Laughter) Still am. [CONFIRMATION]

SENATOR LOUDEN: Any other questions for Mr. Turnbull? Seeing none, thank you for your testimony. Those testifying in favor of the confirmation of Mr. Turnbull? Anyone wish to testify against the confirmation of Mr. Turnbull? Anyone want to testify in the neutral? Seeing none, that ends the confirmation hearing on Mr. Turnbull and the confirmation hearings on both of the gentlemen. Thank you, gentlemen, for being here today and we appreciate your service. With that we will go to LB1061 and Jody Gittins will introduce that bill. [LB1061]

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JODY GITTINS: (Exhibit 3) Good afternoon, Chairman Louden, members of the Natural Resources Committee. My name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I'm committee council for the Natural Resources Committee and introducing LB1061 on behalf of Senator Louden. This bill addresses the concern of disposal and recycling of electronic waste. Usually that's referred to as e-waste. The bill imposes a \$3 fee on every item of electronic equipment sold at retail. Electronic equipment for our purposes is defined as a computer, computer monitor and television and those things are further described in the bill. There will be an amendment to the bill regarding automobiles that are equipped with computer equipment as almost all of them are at this point. So there will be an exception to that fee being imposed on...additional fee being imposed on the cost of a new automobile. The fee is collected by a retailer at the time of the sale. In order to assist the retailer with the cost of collecting that fee, the bill allows the retailer to keep 50 cents of that fee. In California, I believe the fee is \$8 and the retailers are allowed to keep 3 percent of that fee for the California model. The rest of the \$2.50 is forwarded to the Revenue Department the same way that sales tax is now forwarded to the Revenue Department. That money is then credited to the Waste Reduction and Recycling Incentive Fund. That fund is currently in existence. We are not creating a new fund. We're not really creating a new program. We're simply authorizing a different program or an additional program under the existing waste reduction and recycling programs. The bill establishes a priority for retail recyclers to apply for a rebate of up to \$1 per eligible item sold to assist the retailer with establishing its own program for recycling. The bill also earmarks the first \$1 million collected under the bill to be used for grants for eligible electronic recycling programs or projects as determined by the department through the Environmental Quality Council which then approves what kind of programs and projects will be...they will allow the department to consider. This bill is an up-front bill. It allows the consumer to be aware of recycling costs as well as the potential to recycle instead of simply depositing obsolete or damaged electronic equipment in a landfill or hiding the costs, if you will, through manufacturers' costs. We all know that manufacturers pass on their costs. It's a cost of doing business. And so it becomes a hidden cost to the consumer. By establishing a fee similar to what we have in our tire program which is an up-front fee for the use of tires and disposing of those tires, Senator Louden believes that this is a fairer way to approach the problem. It's a model that has been used in California successfully for, since 2004, I believe. Other models are out there that cause...that place the burden on the manufacturer. To my knowledge at this point, only one state has enacted that. They enacted it last year and I believe it goes into effect this year or next year and that's the state of Minnesota. There is a Midwest model out there. I attended a conference last fall in Chicago that talked about a Midwest model. That model places the burden on the manufacturer. It's very detailed and very expensive to do. Ours...Senator Louden, having looked at both programs, had decided that this was a simpler, more cost-effective way for the state of Nebraska to handle its e-waste. I'd be happy to answer any questions if I could but there will be, I assuming people after me that will be able to discuss it in greater detail. [LB1061]

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SENATOR LOUDEN: Questions for Jody? Seeing none, thank you, Jody. And at this time, I'd like to mention for the record that Senator Dubas from Fullerton has arrived with the committee. First testifier and first proponent for LB1061. Okay. Then if we have no proponents for LB1061, then I guess we go to the opponents. How many of them are there? Do you want to raise your hands first? Oh, that's not too bad. Okay. Start with first opponent. (Laughter) [LB1061]

SENATOR LOUDEN: (Exhibits 4 and 5) Okay. We have letters from Dan Feltin, AXIS Capital, and Best Buy signed by Paula Prah, vice president, in opposition to LB1061. Okay. Whose the first testifier, quick? [LB1061]

DENNIS BROWN: (Exhibit 6) Good afternoon, Mr. Chairman, members of the committee. I am Dennis Brown, D-e-n-n-i-s B-r-o-w-n. I'm, excuse me, vice president, state government relations for the Equipment Leasing and Finance Association or ELFA. I appreciate this chance to testify. EFLA members engage in business-to-business transactions financing equipment and unfortunately, would be fee collectors under this bill which is drafted on a consumer-retail model rather than the commercial sector in which we operate. And I'll mention I have a member of our industry to come up after me that is out of Omaha. Equipment lessors are not retailers. We don't have possession of the equipment before it's leased and our issues are very different than retailers or internet and catalog sales which escape the fee anyway. LB1061 is modeled on the California Advance Recovery Fee Program which is running out of money. The Department of Commerce 2006 report on electronic recycling notes 87 percent of California's covered devices pay an \$8 fee and the reimbursement the recyclers average is \$16 per electronic unit. It's the implementation problems that are difficult for our industry because commercial leased equipment flows from multiple points through interstate commerce which, as you'll hear from our member from Omaha, certainly puts him at a disadvantage were the bill to be enacted. We don't keep a stock of inventory. We don't have physical possession of the equipment beforehand and the invoices that we receive only have sort of generalized information. I would note that Nebraska has been a leader in the Midwestern region of the Council of State Governments and indeed will host the CSG annual meeting this year in Omaha and I look forward to that. I always attend. I think it's significant to note that the Council of State Governments opposes this up-front fee approach to electronic recycling programs. The ten states of the CSG eastern region voted not to accept the California concept replicated by LB1061. The outcome was the same at the national level when the CSG Environmental Committee voted unanimously to give a negative recommendation to the California up-front fee program, which was repeated when the suggested state legislation committee, nationally of CSG, also rejected the California up-front fee program as a national model. Seven states have enacted electronic recycling since California moved forward. They're all in different stages of implementation and they all do it differently but it's all done producer responsibility. Maryland and Maine are fully implemented. Minnesota and Washington are ramping up

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and you'll see other states coming online as time goes on. I'd urge the committee not to accept LB1061 and would welcome any questions. Thank you, Mr. Chairman. [LB1061]

SENATOR LOUDEN: Questions for Mr. Brown? Senator Fischer. [LB1061]

SENATOR FISCHER: Thank you, Chairman Louden. Welcome to Nebraska, Mr. Brown. [LB1061]

DENNIS BROWN: Thank you. [LB1061]

SENATOR FISCHER: You're opposed to the concept or the program that's presented in this legislation. Do you have a recycling model that you would recommend to this committee to look at? [LB1061]

DENNIS BROWN: Our members favor the producer responsibility approach. Senator Preister's bill gets at that approach. There are different ways of doing it. Different models. Different companies handle it in different ways. Our member from Omaha who will speak next will explain how he does it in Nebraska. Nationally, just to choose two members, Dell Financial Services is a member if you go online to the Dell site. You can print out a FedEx label and you can take any Dell electronic product, ship it back to them free of charge. The only thing it costs you is the box and they'll recycle it. On the other hand, I would mention Hewlett-Packard is another way of doing it. They do the take-back days with Best Buy, Circuit City. Sometimes there's a \$5 fee attached, sometimes not. So my message would be that there are different ways to do it depending on the business model and PNL Capital of Omaha has yet a third way of doing it. But in our industry we've always recycled. Thank you. [LB1061]

SENATOR FISCHER: Thank you. [LB1061]

SENATOR LOUDEN: Other questions? I have a question. Does Dell make television sets? [LB1061]

DENNIS BROWN: I'm 99 percent certain the answer is no, but... [LB1061]

SENATOR LOUDEN: How do we recycle a television set with your method then? [LB1061]

DENNIS BROWN: States that have adopted recycling programs after California have adopted different versions of producer responsibility for televisions and as you can understand, each state develops a way of doing it they feel best fits their state economy. But they do...the most recent was within the last month, New Jersey, producer responsibility on televisions. [LB1061]

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SENATOR LOUDEN: Other questions for Mr. Brown? Seeing none, thank you for your testimony. [LB1061]

DENNIS BROWN: Thank you. I appreciate the opportunity. [LB1061]

SENATOR LOUDEN: Next testifier, please. [LB1061]

PHIL LIEBER: Good afternoon. I'm a little nervous, not for speaking but because all of you know everything about me. It makes me a little nervous. All right. (Laughter) [LB1061]

SENATOR FISCHER: Maybe not. [LB1061]

SENATOR LOUDEN: Yeah, we won't divulge anything. (Laughter) [LB1061]

PHIL LIEBER: My name is Phil Lieber, P-h-i-l L-i-e, b, as in boy, e-r. I'm the president of P&L Capital Corp. P&L Capital Corp. is a Nebraska corporation. I am a resident of the state of Nebraska. I'm here really for two reasons. Number one, as an avid outdoorsman, when I'm hunting turkeys in the Pine Ridge area and I come across a ravine full of garbage, it does make me sick. I see a lot of things that, from the disposal perspective, that do need to get fixed so I think there's definitely some valid issues here that need to be discussed. Number two, as the bill is written, as we've talked a little bit earlier, the bill is a very consumer orientated bill and from a commercial perspective, I think it will have grave consequences on the commercial sector and I think those need to be considered. Just to kind of give you a little bit of an idea. As I mentioned, I'm the president of P&L Capital Corp. P&L Capital Corp. is an equipment lessor. What that is...and let me even specify a little bit more. In our industry if you're not adding value, you're out of business. The value that we bring to the table is to provide a very niche leasing market specifically for computers. That's all we do is computer leasing. We do it on a national basis and that's all we do. The Gartner Group, to kind of give you a feel for the industry, the Gartner Group is a company out of the east coast that does surveys. All 78 percent of all commercial PC equipment is purchased from large distributors such as CDW, Tech Data or directly from the manufacturers themselves, Dell, HP, Gateway, and a number of other manufacturers that are out there. The other 22 percent are purchased from other means, people build machines and those kinds of things. There's very little in the commercial sector, very little retail business. There's very few businesses that go to a retail store and buy a computer system. The Comp USA's, the Gateway country stores are gone. They've closed their doors. They're out of business. They just, on the commercial end you just don't buy computers from a retail environment. Out of the 78 percent, over 40 percent of those are leased. The leasing industry alone is \$40 billion just on the computer equipment. In the state of Nebraska, as mentioned earlier, we do business on a national basis but in the state of Nebraska right now the Nebraska Medical Center is a customer of mine. Right now the Med

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Center has over 4,000 desktops on lease through my company. Gallup organization, which is based in Omaha, used to do business with other companies. They do it with mine now. Even here in the state, the Nebraska State Supreme Court, we provide all of the financing for the Nebraska State Supreme Court, okay. These companies or these organizations, the reason that they lease, there's a number of reasons but a couple primary, they lease the equipment from me. And so what I do is I buy the equipment from the manufacturer, okay. So I'm the purchaser of that equipment. I take that equipment. I lease it to these entities. At the end of the lease they turn it back to me. It's my responsibility to scrub these machines, make sure they're HIPPA compliant, Sarbanes Oxley and dispose of them properly. How do I dispose of them? Two ways. We market this equipment in the secondary market, move equipment all over the world. There's a bigger market than you think for the equipment. For equipment that is too old to be sold, we take that equipment and we use one of two recycling centers in Omaha. The recycling centers right now in the commercial industry are booming. Capitalism at its best. The recycling centers are extremely busy and doing very well. Another reason, well anyway that's, you know, on the commercial side I don't see...well, let me back up a little bit. We also have a division of our organization. If the organization doesn't lease from us, we'll pick the equipment up, we scrub it, is what they call in our industry, and then we dispose of it, and we provide that organization with the documentation to relieve them of that liability. The commercial environment in this state has a deep responsibility and they don't just take this equipment and throw it in a ditch or put it in a landfill. From a competitive advantage, as a Nebraska company if this bill is enacted, you're going to put me in a severe disadvantage. We have competitors in other states that claim nexus. They aren't under the same rulings of the sales tax which is my understanding of how this is going to be audited. That if you'd look at the Med Center they have 4,000 computers on lease. At \$3, I use \$3.50 what I thought I read, at \$3.50 over 4,000 I'm adding in approximately \$388 that I've got to pass through to the Med Center and in my business if I'm 10 cents higher than my competitor because of the volume, I'm out...I lose that business. I'm out of business. We get our return on the disposal. I've stated a lot of the problems. I've always told my employees don't come to me with a problem unless you have a solution. There are a lot of different solutions out there. I do believe that the manufacturers have taken responsibility. I do believe that there are programs available that the manufacturers can run which keeps our government out of the business of the recycling and collecting and keeps our companies like mine out of the business of collecting fees that we may not be able to collect. So anyway, I came here two years ago and talked and it was a very similar bill. I think the bills are very conscientious and are good. I think from a commercial perspective, though, we miss and I think that's why I'm here today is to let you know that. So I'd be more than happy to answer any questions. [LB1061]

SENATOR LOUDEN: Questions for Mr. Phil Lieber? I have one. You talked all about your computers and what you do with them. What do you do with the television sets? Do you lease television sets out to people? [LB1061]

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PHIL LIEBER: No, we don't lease television sets. I think they're two different products. That's like asking a car and a truck. I mean, they're different products, they're different needs. But I can answer your question... [LB1061]

SENATOR LOUDEN: Okay. With your method then how would you recycle these television sets that the average homeowner has that's going to have to be something done with? [LB1061]

PHIL LIEBER: Well, I would think you need to address...there again that's a consumer, a consumer issue and I'm not as familiar with the consumer. I can tell you that Gateway and I do believe Dell do sell televisions But I would also venture to say that 90 percent of your TVs are purchased retail through the mart or Best Buy or whatever, which is a different model than the computer model where in my opinion 80 percent of the commercial computers are purchased not retail, where 80 percent of the televisions are purchased retail. And so I think it's a different market and it's a different problem. [LB1061]

SENATOR LOUDEN: So how do we address that with legislation? I mean you told us how not to address your problem but how then do we not address the television problem then? [LB1061]

PHIL LIEBER: You know, I'm not a television expert so I can't answer that. [LB1061]

SENATOR LOUDEN: Okay. Well, that's what the committee has to contend with and I appreciate your testimony but then again, you have to remember we're getting into an era here where there's going to be a whole bunch of television sets that's going to be hitting the streets, you might say, and I don't think they're going to be able to sell them overseas. So we have to find out something that's going to fit all the way around and when you talk about a Best Buy, where I live I suppose the closest Best Buy is about 250 miles away. Thank you for your testimony. [LB1061]

PHIL LIEBER: Thank you. Any other questions? [LB1061]

SENATOR LOUDEN: Seeing none, thank you. [LB1061]

PHIL LIEBER: Thank you. [LB1061]

SENATOR LOUDEN: And next testifier. Oh, you guys...okay, somebody sit up front. Don't be afraid of us, we'll...(laughter) All those with good ideas sit up front here. (Laughter) [LB1061]

CARRIE HAKENKAMP: Good afternoon, Senator Louden and members of the Natural

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Resources Committee. I appreciate the opportunity to testify today. My name is Carrie Hakenkamp and for the record it's C-a-r-r-i-e H-a-k-e-n-k-a-m-p and I represent WasteCap Nebraska. We work with businesses on waste reduction and recycling programs throughout the state and today I'm here to oppose this legislation. Mr. Brown with ELFA covered most of my testimony so I won't repeat most of what he had said. But you know, basically I've been testifying either for or against different legislation since 2001 when Senator Preister started, started presenting different legislation. And I've consistently opposed the advanced recycling fee because for one of the reasons, again in California their program is not collecting enough money and at \$8 a unit they're paying \$16 a unit just to the recycler and that does not cover program administration. So they're only collecting about 50 percent of their recycling cost and I worry that at \$3 per unit we're going to be at a much greater disadvantage and I'll testify later again. But one of the things that has been estimated is that Nebraskans are generating about 1.57 pounds of equipment per capita per year and that equates to about 2.5 million pounds of equipment each year that would be generated for recycling. So looking at the \$3 advanced fee and a cost for collection, transportation, and recycling of about 50 cents per pound, it probably wouldn't cover the cost. Again, this legislation has been passed only in California out of the nine states that have actually passed legislation. Some of the states have gotten started. I've reviewed a lot of what their programs cover in their producer responsibility model. Also, most of the larger manufacturers, such as Dell and HP and other folks, do support this type of model. I know that Sony and Panasonic and some other folks have gotten together in Minnesota to create their own recycling program under that Minnesota producer responsibility model which would cover the television sets that you're concerned with. And most of the producer responsibility models do include television CRTs as well as computer monitors. So I guess I just want to say that I do agree with the producer responsibility model over the advanced recycling fee approach. Just don't feel like we could cover the costs of that type of a program through the advanced recycling fees and so I would urge you not to push this bill forward. [LB1061]

SENATOR LOUDEN: Okay. Questions for Carrie? I have one. You talk about Minnesota. How long have they been in business doing this in Minnesota? [LB1061]

CARRIE HAKENKAMP: I think their program started last year. They...when we were testifying last year at this time, they had passed theirs. And so they've gotten their program up. They've already registered I believe 170, or 125 manufacturers, and there's different numbers of manufacturers throughout the country who have registered in different states depending on their definitions. [LB1061]

SENATOR LOUDEN: How many tons of television sets and stuff like that have they picked up then? [LB1061]

CARRIE HAKENKAMP: I don't know the answer to that. [LB1061]

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SENATOR LOUDEN: Have they picked up any? [LB1061]

CARRIE HAKENKAMP: Oh, I'm sure that they have. I spoke with one of the recyclers today from Minnesota and he said that he's already been doing computer collections, free collections throughout the state and taking televisions and CRTs under that agreement that they have in Minnesota now. [LB1061]

SENATOR LOUDEN: Now do they run around and have a kind of a route, they run around every month and they'd be at certain places and pick up televisions and computers and everything... [LB1061]

CARRIE HAKENKAMP: I think initially they're, I think... [LB1061]

SENATOR LOUDEN: ...or how you going to bring all that in in a state like Nebraska that is pretty sparsely populated in some areas? [LB1061]

CARRIE HAKENKAMP: Well, and again that's why we've proposed in the past to develop an infrastructure throughout the state utilizing either landfills or transfer stations or Goodwill locations or other places that could collect and hold temporarily until a recycler could come and pick that up and create some sort of a milk run. [LB1061]

SENATOR LOUDEN: Now how do you pay for that? I mean, how do you pay for...how do you pay Goodwill to collect them and store that stuff? I mean somebody's going to have a little bit of money to do that and I was wondering how you intend to pay for it if...are the manufacturers going to pay those people? [LB1061]

CARRIE HAKENKAMP: The manufacturers would have to pay into a program that the state would disburse the funds. [LB1061]

SENATOR LOUDEN: Okay. Then do we have to set up legislation that the manufacturers are going to have to pay a fee in order to sell those products in Nebraska so we have some money generated so we can run that program? [LB1061]

CARRIE HAKENKAMP: Yes. And I believe that's what Senator Preister's bill would do. [LB1061]

SENATOR LOUDEN: Now what's the difference if we set that up so you guys pay the fee or if you just pay the fee up-front when it's sold, the consumer, whoever buys the thing, what would be the difference? [LB1061]

CARRIE HAKENKAMP: The only difference...because depending on how you set up the fees you're going to bring in about the same amount of money. It doesn't necessarily

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matter how you're going to bring in that money. But it's estimated that once 30 to 40 percent of states pass legislation there will be national legislation. And if we set up an advanced recycling fee system like California has, we're going to have to start over from scratch when that national legislation comes down. [LB1061]

SENATOR LOUDEN: Is there federal legislation for scrap tires? [LB1061]

CARRIE HAKENKAMP: I don't think so. I don't know on scrap tires. [LB1061]

SENATOR LOUDEN: Then why would they set it up for television and e-waste if... [LB1061]

CARRIE HAKENKAMP: Because there's a huge push worldwide on e-waste. Not as much as there is on waste tires. You know, we've got legislation in Nebraska for waste tires and we send it to a monofil in Kansas and landfill them anyway. So we need to (laugh) have legislation that's going to work for everyone. It's worked in Europe. They've used these types of models in Europe. It's been very successful there. Canada has passed this type of a model with the producer responsibility. The manufacturers prefer it over the advanced recycling fee because there's no additional cost for them to meet the requirements in one state versus another because they've already designed their equipment, they're designing for the environment, making their equipment more reusable, more recyclable, easier to manage once its reached the end of its life. And they just really prefer that method over what's gone in California. Best Buy alone spent millions and millions of dollars changing all of their SKUs in order to meet that legislation. And that's just one retailer in one state. And if we had our own advanced recycling fee in Nebraska, all the retailers in our state would have to do the same thing and spend millions and millions of dollars trying to meet that regulation and so it ends up being kind of a tax on the retailer... [LB1061]

SENATOR LOUDEN: Why would they have to spend millions and millions of dollars to meet that regulation? All they've got to do is put three bucks down and on the bottom line when they sell the television sets, send the money in to the what, Department of Revenue, don't they? [LB1061]

CARRIE HAKENKAMP: Well, it would hopefully be that simple but in California they've shown that it was not that simple for them to do. [LB1061]

SENATOR LOUDEN: Well, maybe they don't know how to run it. (Laughter) [LB1061]

CARRIE HAKENKAMP: It could be, it could be but you know, that's the only example that... [LB1061]

SENATOR LOUDEN: I would hate to be compared with California on everything.

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[LB1061]

CARRIE HAKENKAMP: Right. No, and it's the only example that we have to go off of is to look at what they've done for the past several years and what they have learned from their experiences. Most of the other states that have passed the producer responsibility models have not been doing it for several years like California has been doing theirs. But we have found that they are seeing some success with getting programs set up doing computer collections throughout the state and allowing, you know...looking at televisions exactly the same way that you would a computer monitor because other than the plastics and some of the materials that are used to make the televisions, they're the same thing. It's a cathode ray tube with anywhere from five to seven pounds of lead encased in the glass. So they are treated exactly the same as any computer monitor would be. [LB1061]

SENATOR LOUDEN: Okay. Other questions for Carrie? Senator Dubas. [LB1061]

SENATOR DUBAS: Thank you, Senator Louden. Thank you, Carrie. When you refer to what the success of that particular collection fee in other countries, what determines success? The fact that they aren't having a lot of these computers in landfills or... [LB1061]

CARRIE HAKENKAMP: They had great participation from all of the manufacturers. They've got the manufacturers on board. The manufacturers pay the fee. The fees cover the cost of managing the programs and they're collecting equipment from the public in amounts that are conducive to what they believe would be generated through that program. [LB1061]

SENATOR DUBAS: Is there a difference in the understanding on the consumers' part between these two different types of collection or would it be pretty much... [LB1061]

CARRIE HAKENKAMP: You know, I can't speak on the consumer side on that portion but WasteCap has done 15 computer collections in our state and one of the things that I have found since doing computer collection since 2001 is, if you charge consumers they're not going to be there. They will not be there. Our collections bring in about .4 pounds per capita, whereas free collections for consumers bring in 4.1 pounds per capita. So it's quadruple (laugh) the amount of participation and again, that's because our collections we only allow you to bring one monitor and 50 pounds of peripherals for free and we charge after that. And again, we target businesses more than households. So there's a little bit of difference in that but looking at some national numbers of computer collections throughout the country, we are seeing that whenever there's a fee associated the consumers really prefer not to pay that fee. [LB1061]

SENATOR DUBAS: So tell me just a little bit more about your business. You just

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operate in the more urban areas or do you have things all across the state? [LB1061]

CARRIE HAKENKAMP: We're a nonprofit program and we were originally organized in Lincoln as a Lincoln only program and in 2005 we became a statewide program and we're doing outreach to businesses in other areas of the state. So if they're a business in any community, we would either help them by going out on-site and assisting that business or, you know, do what we could to help them. Most of what we do is eastern Nebraska just because that's where a lot of the business and industry is. Our computer collections we have done all over the state. We've done them in Scottsbluff, North Platte, Beatrice, (laugh) Norfolk, Omaha. So, I mean, we've been all over the state with those. We've done Hastings and Grand Island and so we've done those in all different areas. [LB1061]

SENATOR DUBAS: So those collections target the individual owners rather than a business? [LB1061]

CARRIE HAKENKAMP: Those collections, most of them, some of them were done on Saturdays which would target a household and a consumer and that was at the very beginning of doing some of the computer collections. We did those in concert with the Nebraska State Recycling Association and Keep Nebraska Beautiful affiliates. So those targeted households. At the time we allowed three computer monitors for free and then charged \$5 a monitor after that. The collections that WasteCap specifically has done on our own, we generally will do those on a Wednesday or a Friday so that we can get small businesses to participate in those. We like to target the business because, you know, for the small business there's not a lot of opportunity for them, especially, in western Nebraska, to get their equipment recycled just like there's not an opportunity for households as well, so. [LB1061]

SENATOR DUBAS: Thank you. [LB1061]

SENATOR LOUDEN: Other questions? Yeah, I have one more. When you go out to Scottsbluff and have one of these television amnesties or whatever you want to call it and my understanding is you probably only open for about a couple of hours or so. But who pays, who pays for that, who pays to haul those televisions off, the trucking expense and all that? Where did you get your money to operate with? [LB1061]

CARRIE HAKENKAMP: Grant funds. I got grant funds from both the Waste Reduction Recycling Grant Funds... [LB1061]

SENATOR LOUDEN: From where? [LB1061]

CARRIE HAKENKAMP: From the Waste Reduction and Recycling Incentives Grant Funds from DEQ and we've also gotten funding from the Nebraska Environmental Trust.

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And I know that the Waste Reduction Recycling Grants is one thing that you're intending to continue with this particular bill as is Senator Preister's bill. And again, I've never supported computer collections as the be-all, end-all of solving our problems. We do it because we know that there's 2.56 million pounds of computer equipment and electronic equipment out there that people are storing that we need to find a home for until legislation exists to come up with a better option. [LB1061]

SENATOR LOUDEN: Now your funding then comes from that grant money, you put in for grant money or... [LB1061]

CARRIE HAKENKAMP: Um-hum. [LB1061]

SENATOR LOUDEN: Okay. From the DEQ and that fund? [LB1061]

CARRIE HAKENKAMP: Um-hum. [LB1061]

SENATOR LOUDEN: Now is that the same fund that the scrap tires fund goes into? [LB1061]

CARRIE HAKENKAMP: Well, I believe that the scrap...it's all under the same grant program but I believe... [LB1061]

SENATOR LOUDEN: But it all goes into that same fund, doesn't it? [LB1061]

CARRIE HAKENKAMP: Right and I don't know how they separate out... [LB1061]

SENATOR LOUDEN: When you buy a new tire, your dollar that you spend on your tire goes into that fund? [LB1061]

CARRIE HAKENKAMP: But I believe that it's earmarked for tires. [LB1061]

SENATOR LOUDEN: Some of it is...there's some that's earmarked for tires but the whole fund is all these things that go into that fund. What is it, there's three different things that go in that fund, you know. [LB1061]

CARRIE HAKENKAMP: Right. Correct. [LB1061]

SENATOR LOUDEN: But you guys are...let me put it this way. You don't have a problem with dipping into that fund to get rid of television sets but you don't want to put any money from television sets in that fund, is that what you're telling me? [LB1061]

CARRIE HAKENKAMP: No. (laugh) I don't have a problem... [LB1061]

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SENATOR LOUDEN: What did you tell me then? [LB1061]

CARRIE HAKENKAMP: Okay. I just don't support putting money into that fund in this manner. I support putting money into the fund in a different manner if that's how we're going to do it. That's how everyone has managed computer equipment for the past several years. I know DEQ has already put in over \$1.6 million over a five-year period into computer and electronic recycling alone. That's \$1.6 million that didn't go into other waste reduction recycling and pollution prevention programs. And I do appreciate how you've done that. My concern with this bill also is that only \$1 million of the money is earmarked for electronics to go into that fund. My estimations show that we need about \$3 million a year and again, that's based on 1.57 pounds per person per capita per year and it costs us on everyone of our computer collections an average of 50 cents a pound to manage the equipment. [LB1061]

SENATOR LOUDEN: Okay. Thank you. Other questions? Seeing none, thank you for your testimony. [LB1061]

CARRIE HAKENKAMP: Thank you, very much. [LB1061]

JIM OTTO: Senator Louden, members of the committee, my name is Jim Otto, J-i-m O-t-t-o. I'm a registered lobbyist for the Nebraska Retail Federation and I'm here to testify in opposition to LB1061. I'll be brief. We have a record year after year on recycling, electronic recycling bills that we have always, maybe in a selfish manner, been opposed to an advance recovery fee and in favor of producer responsibility mode. And so we, I have been here before testifying in opposition to an advanced recovery fee. I'd just like to take a quick few seconds and remind you of what retailers do for the state of Nebraska at very little, if any, getting reimbursed for. Retailers primarily are one of the primary, if not the primary, collector of sales tax for the state of Nebraska. As of 2002, retailers no longer get reimbursed anywhere close to what it costs them to collect the sales tax. Presently, you can only get \$75 a month no matter if you've collected a million dollars in sales tax for the state. So that's one thing that the retailers do for the state of Nebraska. The second thing I'd remind you is that retailers get no, practically no, if any, economic development fees. I mean, LB775 is designed for primary employers and it's always considered that retail is a spin-off of those primary employers. This is another burden for retailers that they will not get very much, if any, back for and so I guess maybe from a selfish point of view, I'd remind you that you have retailers all across the state who are paying Nebraska taxes, who are Nebraska businesses, very few manufacturers. So for that reason, whether or not it be a selfish one, retailers are, Nebraska Retail Federation is opposed to the advance recovery fee and would also mention that I believe the manufacturer responsibility bill, or excuse me, model, has been accepted fairly well across the country. I'm not aware of anyone here from the manufacturing industry that's going to testify against the manufacturer model. Now, I may be surprised as we come to the next bill. But with that...oh, I was going to mention

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Senator Louden, you had several questions about Minnesota's program and there's a gentlemen here from Waste Management in Minnesota. I don't believe he's going to be testifying on this bill but will be testifying later and I think he can answer most of your questions about how it's working in Minnesota. With that, if there are any questions. [LB1061]

SENATOR LOUDEN: Questions for Jim? Did you, you circulated the letter from Best Buy? [LB1061]

JIM OTTO: They sent it to me and asked me to drop it off. [LB1061]

SENATOR LOUDEN: Okay. When they talk about the manufacturer doing this and what I notice right off the first paragraph you said something about they manufacturer electronics and Best Buy currently employs 700 people in five retail stores in the state of Nebraska. Right therein lies our program. The five retail stores are probably down here in Lincoln and Omaha. [LB1061]

JIM OTTO: You're probably right. [LB1061]

SENATOR LOUDEN: And if you have to send something back to them, why, like I said, where I live it's probably 250 miles or more to the nearest...which would be over in Fort Collins, Colorado, is the closest Best Buy that I know of, where we live. So when you talk about having your manufacturer being responsible for some of that there's, there is out there that it doesn't work very well. Now the lady that testified before you talked about going out to Scottsbluff and having this electronic, I call it amnesty day, or whatever they do, and those work quite well out there because usually when they do that they're only there for a short period of time because they have a load. I mean they have more than what they can haul off. But I was curious that how she figured on funding it was using somebody else's money or else should we have the manufacturers pay into a fee then sort of like the retailers have to pay so they don't have to fool with those pop bottles. [LB1061]

JIM OTTO: Right. Well yes, Senator, I agree 100 percent. The manufacturers need to pay into that fund to get that money so that they can do that. And unless they have some significant program that will show the state that they don't, that they're actually recycling all these, I'm not sure exactly how that would work. But, yes, the manufacturers need to pay into that fund. And so what we're really saying is, I think you and I would agree, that whether you charge the manufacturer or you charge at the...in the wholesale price to the retailer or it's charged to the customer when the retailer sells it, either way the customers going to pay. The questions is, I mean, eventually the customer is going to pay it. So the question is does it get charged right in the cost of the machine or does it get charged at the end sale point. And we would just say that, once again I guess for a selfish point of view, we'd just as soon it was in the cost of the

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machine. But also it would encourage manufacturers if there is no incentive for a manufacturer to design green, to figure out how they can make these so that they are more recyclable, it seems to me that collecting that fee at the end sale point provides no incentive to that manufacturer to design green, whereas if it was something they had to pay they would recognize that the cost of recycling is something they have to consider in the cost of manufacture. [LB1061]

SENATOR LOUDEN: Now I don't have any problem with Dell or Gateway or somebody like that paying in but what about these off-breed manufacturers in China and Lord only knows where that sell these computers or television sets or whatever in Nebraska? How do we get them to pay into that fund? [LB1061]

JIM OTTO: Well, if they're going to sell computers in Nebraska they have...I would say they would have to pay into the fund and it wouldn't be... [LB1061]

SENATOR LOUDEN: Did you ever hear of the Nebraska tractor test? (Laughter) [LB1061]

JIM OTTO: Yes. (Laughter) [LB1061]

SENATOR LOUDEN: And where you see the trouble that that gets into if you want to sell a tractor in Nebraska. Would we run into the same problem? [LB1061]

JIM OTTO: Well, I don't think so because it's already been done in several other states and there's a pretty reliable list of manufacturers and the retailers know who they're buying it from and just a little point there. When it show...Best Buy...this sounds very selfish from the retail point of view, but that letter from Best Buy, I didn't write it. Best Buy wrote it but they do point out that Best Buy is both a retailer and a manufacturer because they sell their own Best Buy brand name that they contract with someone. So it's not like these retailers like Circuit City, Best Buy, those large ones, it's not like they're not going to pay anything into this fund. They would just rather do it from the manufacturer point of view than the retail collection at the end sale. [LB1061]

SENATOR LOUDEN: Okay. Thank you, Jim. Other questions for Jim? Seeing none, thank you for your testimony. [LB1061]

JIM OTTO: Thank you. [LB1061]

RON SEDLACEK: Chairman Louden and members of the Natural Resources Committee, for record my name is Ron Sedlacek, that's R-o-n S-e-d-l-a-c-e-k and I'm here today on behalf of the Nebraska Chamber of Commerce and Industry in opposition to LB1061. And which should be of no surprise because in previous legislative proposals that have touched on the advance recovery fee model for electronic waste

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issues, we have previously taken positions in opposition. We have particular concern regarding about four or five areas that are either addressed or somewhat vague in this particular bill. And would agree with the first testifier this afternoon in the hearing where he mentioned that he, and I would agree with him in this, that it probably has consequences in the commercial area particularly and not speaking from the retail sector so to speak but from commercial operations more than we suspect. And that may be due to the way some of the definitions are formulated here that vary from other state laws. For example, computer monitor. There are some programs in which the definition would exempt those that are four inches or smaller so you don't have your handheld phones or particular appliances now that have not only ROM but also RAM memory contained within. The definition of monitor as in this bill was drafted includes LCDs, handheld games, and so on. So there are a number of issues that we have not yet decided as to whether they are applicable to the bill or not. But one of our major concerns is that it doesn't address the areas where you have business-to-business transactions or what exactly is...there's no definition essentially of retailer. Although I believe the intent is...would possibly be for consumers and retailers to consumers the way the bill is currently drafted, there are a number of entities that would be considered retailers and would be a completely business-to-business type transaction. So the question becomes if they don't have a sales tax, you know, or if there in that situation where they become a sales tax collector, how does that all fit in. What about the sale for resale models. The leasing has, had been mentioned in the previous hearing. In addition, this bill does not address specifically what I would call this legacy equipment or orphan equipment. Now, not all legislation has been introduced is perfect in regard to addressing these issues but for example, General Electric has not sold televisions, I guess, to consumers directly now for some years. Yet if there are going to be television monitors, there are going to be new TVs purchased. There's essentially a contribution to the system here in the form of the waste but no contribution per se by either the consumer or the manufacturer, and becomes a question as to what kind of incentive would the bill give in regard to recycling that type of equipment. Also, we can see that this does not apply directly to internet sales, certain catalog sales which would be a competitive disadvantage to the retail industry in assessing the fee. It may encourage more out of state sales. Some states have tried to, tried to recapture this. California for example has already gone back to try to recapture this by providing forms on the income tax but this is not addressed on this particular bill. It does not really provide manufacturers with an incentive to produce more environmentally benign products or design products in a more favorable way for recycling purposes. And finally, it really gives no incentive for manufacturers to engage in private sector type programs or programs in cooperation with recyclers because they're no longer involved directly in that scheme of matters. I know that they mentioned Sony for example embarking on a particular program. I've heard of that. I'm not real familiar with their particular program but do know from national meetings that manufacturers are engaging in private sector initiatives in order to address this problem. We've got a myriad of patchwork of state legislation. California is the only advance recovery fee model. Several other states has

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already been mentioned and there's a congressional study, of course, you probably have access to that, that has talked about the various forms of legislation dealing with producer responsibilities. What probably is most needed is a federal model that states could either adopt individually or that there would be a federal solution to the problem. So with that, I'd be happy to answer any questions. [LB1061]

SENATOR LOUDEN: Questions for Ron? Seeing none, thank you for your testimony, Ron. [LB1061]

RON SEDLACEK: Thank you, Senator. [LB1061]

SENATOR LOUDEN: Next testifier. Is this the last one? One more. [LB1061]

JEREMY McNEAL: Good afternoon. My name is Jeremy McNeal. J-e-r-e-m-y M-c-N-e-a-l. I'm the manager of a computer and television recycling company in Omaha, Nebraska, CP Recovery. On behalf of the company here today, I'm here to oppose LB1061 and the advanced recycling fee. I do not believe that this is the proper way to go in terms of funding some kind of recycling infrastructure for computers and televisions. We've been recycling TVs and electronics for approximately seven years now. We do have a fee for all customers. There has been times that we have used grants similar to the ones that Senator Louden was discussing for having an amnesty day and recycling. We have dipped into that fund before. However, we feel that an advanced recycling fee would not be the way to continue supporting that grant. We felt that it would be too cumbersome in terms of possible rebates and allowing retailers to have 50 cents which they no doubt would deserve for all their work and effort. However, when you have a thousand retailers in this state you're going to create more bureaucracy, more red tape. If you have any further questions, please feel free to ask me. [LB1061]

SENATOR LOUDEN: Questions for Jeremy? I would have one, I guess. What...how would you recommend funding some of this. I mean, if you're going to have some amnesty and use grant money to do it, how would you put money into that program to be able to sponsor some grant money? [LB1061]

JEREMY McNEAL: Later on here, we will be supporting Senator Preister's LB986 which has the manufacturers putting into the grant funds and making it a manufacturer responsibility instead. [LB1061]

SENATOR LOUDEN: Instead of local people putting money into the grant, then you would have manufacturers from some place? [LB1061]

JEREMY McNEAL: That's correct. [LB1061]

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SENATOR LOUDEN: Okay. Any other questions? Thank you for your... [LB1061]

JEREMY McNEAL: Also, if I might add. We are now the contractor for Goodwill Industries. Goodwill will start accepting electronics here shortly in the state of Nebraska across the entire state so in terms of a rural perspective as you're talking about getting rid of an old television or computer monitor, that will be available across the state here shortly. [LB1061]

SENATOR LOUDEN: Who's going to pay them? [LB1061]

JEREMY McNEAL: Goodwill is going to use the electronics. They're going to take them for no charge. However, the difference is they're going to use their salvage as money to pay for the fund as well as starting to sell electronics in their retail stores. As a recycler, we do not resell any electronics. [LB1061]

SENATOR LOUDEN: Are they going to take old television sets and everything? [LB1061]

JEREMY McNEAL: I believe so. [LB1061]

SENATOR LOUDEN: That aren't...that don't work and all that kind of stuff. [LB1061]

JEREMY McNEAL: They may be pushed with that product. [LB1061]

SENATOR LOUDEN: Okay. [LB1061]

JEREMY McNEAL: That will be a risk that they take at that time. [LB1061]

SENATOR LOUDEN: Senator Wallman. [LB1061]

SENATOR WALLMAN: Thank you, Senator Louden. As a return on those recycles, is there much value in an, oh, in like an old TV? [LB1061]

JEREMY McNEAL: There can be some value. They're typically in our case because we do not resell TVs or computers as they come in. We're simply a dismantling operation. For us there's not enough value in that. That's why we have the fee. [LB1061]

SENATOR WALLMAN: Thank you. [LB1061]

SENATOR LOUDEN: Seeing no more questions, thank you for your testimony. [LB1061]

JEREMY McNEAL: Thank you. [LB1061]

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STEVE ANDREWS: Chairman Louden, committee members, thank you for letting us come today and discuss these issues. The Recycling Association is in opposition to the ARF bill that's been introduced and... [LB1061]

SENATOR LOUDEN: Would you spell your name for us? [LB1061]

STEVE ANDREWS: Oh, yes, I'm sorry. It's Steve Andrews, S-t-e-v-e A-n-d-r-e-w-s. I think, you know, one of the reasons why we're opposed is that we've worked on this for six, I believe six years now and we've finally have gotten people to agree to the product stewardship model that has been introduced by Senator Preister. I think, you know, taking that into consideration is extremely important. The other thing is product stewardship is the model that is going to be adopted by probably all states and as Miss Hakenkamp earlier, there will probably be federal legislation and it will be product stewardship. As the bill...this bill as structured, there will not be enough money in that bill to cover the cost of the collection. And I think, Miss Hakenkamp really touched on that well. The infrastructure is in place and I've testified to this in the past. I believe the infrastructure is in place. Now, is it going to be easy setting an infrastructure up? No, not necessarily but I believe it is there. If you go and if you looked at a map at all the collection, possible collection points, the Keep Nebraska Beautiful affiliates, the transfer stations, the community programs that are running recycling centers and stuff there...and the Goodwill's now joining in, there is going to be, the infrastructure will be there to collect this material. And I think the important thing about product stewardship to consider and Mr. Otto touched on this, is the design factor and because of product stewardship computer manufacturers and other manufacturers have changed the design of their equipment. You know, at one time you'd have 32 different types of plastic in a casing for a TV or for a computer monitor, for example. You know, they've gotten that down to two now and that's important because it's much easier to recycle. It's easier to separate two materials than it is 32 materials. So product stewardship drives a definite change in design which we definitely need to do in the coming years. With that said, I'll entertain any questions if anybody has any. [LB1061]

SENATOR LOUDEN: Questions for Steve? When...did I understand you that you were inferring that if this bill's passed then the manufacturers won't do, won't go ahead and keep on doing what they're doing? [LB1061]

STEVE ANDREWS: It is, as far as the... [LB1061]

SENATOR LOUDEN: Recycling, your Gateways or your Dell and those people like that. [LB1061]

STEVE ANDREWS: The manufacturers will continue to do what they've done with their takeback programs. They'll continue that because, you know, other states are passing

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legislation so they'll continue to do that. The recovery of material if you don't have something in place won't be as great as if you did have, you know, some type of infrastructure in place. [LB1061]

SENATOR LOUDEN: Okay. And what would...how would you fund that program to collect these TVs and stuff? You're in the recycling business, is that correct? [LB1061]

STEVE ANDREWS: We are a statewide advocacy association. We assist communities, businesses, private recyclers, volunteer groups across the state on recycling issues. [LB1061]

SENATOR LOUDEN: And how do you get, you know, I presume you're mixed up in some of these amnesty days and that sort of things. [LB1061]

STEVE ANDREWS: We've worked on a few of the early amnesty days with WasteCap and Keep Nebraska Beautiful. [LB1061]

SENATOR LOUDEN: And you take all television sets and whatever they bring? [LB1061]

STEVE ANDREWS: Yes, we would... [LB1061]

SENATOR LOUDEN: Or just computer monitors? [LB1061]

STEVE ANDREWS: We took computer equipment, computer monitors, CPUs and we have taken TVs in the past. I believe, you know, there have been a number of collection events. Carrie's had some. And I think there at times there's been, you know, free drop-offs of TVs but in other cases I believe there's been a charge for the TVs versus the computers and stuff. And I believe the product stewardship model the manufacturer's going to pay for the cost of the recycling anyway, TVs, computers, computer monitors and all of that. [LB1061]

SENATOR LOUDEN: And where did you get your funding to carry that on? [LB1061]

STEVE ANDREWS: That funding came out of the grant funds here in the state. [LB1061]

SENATOR LOUDEN: Environmental... [LB1061]

STEVE ANDREWS: Environmental Trust and I have to...it was a number of years ago. I believe maybe Waste Reduction grant. [LB1061]

SENATOR LOUDEN: Okay. Other questions? Senator Wallman. [LB1061]

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SENATOR WALLMAN: Thank you, Senator Louden. I think you realize, you know, there will be a lot of old equipment out there so do you recommend the state infuse some capital in there to get that started out or what do you expect there? [LB1061]

STEVE ANDREWS: Well, as the bill is, the product stewardship model, the registration fee would cover some of that infrastructure cost and then the manufacturers would take care of the other costs of legacy equipment. [LB1061]

SENATOR WALLMAN: Thank you. [LB1061]

SENATOR LOUDEN: Seeing no more questions, thank you for your testimony. [LB1061]

STEVE ANDREWS: Thank you. [LB1061]

SENATOR LOUDEN: And was that the last one in opposition to the bill? Anyone wishing to testify in the neutral on LB1061? Seeing none, that closes the hearing on LB1061. We'll go now with LB986. Senator Preister. [LB986]

SENATOR PREISTER: (Exhibit 7) Thank you, Chairman Louden, members of the Natural Resources Committee. It's good to be here. My name is Don Preister, D-o-n P-r-e-i-s-t-e-r and Senator Louden, it was just about seven years ago I introduced almost the identical bill to the one you just did and after hearing the same kind of opposition, (laugh) I finally started listening to all those opponents and taking into account and we've continued that process. And I think I bring to you today the culmination of seven or eight years of hearing that opposition and putting something together that will do exactly what you want and what they're asking for too. I think we have a win-win situation here. Electronic waste or e-waste is the fastest growing municipal waste stream in the country. In 1999 the National Safety Council estimated there would be between 300 and 500 obsolete computers in the U.S., that should be million, in the U.S. by 2005. The EPA estimates that about 57 million televisions and computers are sold each year in the United States and that currently 20 to 24 million computers and televisions are added to storage each year. In 2005 Congress mandated that broadcasters terminate analog television broadcast transmissions and switch to digital broadcasts by February 17, 2009 to ensure that the state and local emergency responders have adequate spectrum to communicate and respond to natural disasters and terrorists. According to the National Association of Broadcasters, seven million television sets still rely on an analog signal for television service. This conversion will affect the volume of televisions that need to be recycled. I passed out to you several pictures which appeared in the recent issue of National Geographic and a photo taken by private photographer Natalie Behring. I've received permission to copy these photos for this hearing with the understanding that no other replicas of the photos will be

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reproduced. You can see on the one photo, and I'm sorry for the audience you don't see this, but it's a picture of a man who's using his essentially dinner cooking skillet and on that skillet he's melting lead, lead that we have shipped over there in our electronic waste from the United States. Probably this same evening that man and that same skillet is going to cook his family's dinner. They're absolutely no standards in Africa, in China, in India, in all of these developing countries where we're shipping our waste and where we're affecting and impacting the lives of these children. There was another picture on a TV show that dramatized this with a little child sitting right over on the side of this man eating out of one of these same plates. That disturbed me. It certainly has my attention. On another picture you'll see the very colorful little girl sitting in a pile of wires and electronic waste, again in China, coming from the United States. Absolutely no environmental standards. Absolutely no OSHA safety standards. Absolutely no concern for what's going to happen to that little child when it grows up. The third picture is one of an African child. We're doing the same thing in Africa. These desperate people are finding ways to make a living. We're shipping boatloads of this stuff out of our country rather than taking responsibility in the United States. We're shipping it to third world countries and obviously you can see here again in Africa, there are no safety standards, there's no health standards and these people are being exposed to mercury, cadmium, lead, other hazardous materials, that if they're handled properly as we can do them here, as you heard Jeremy McNeal say and others, we can deal with that but we need to take responsibility for doing that. [LB986]

SENATOR LOUDEN: Excuse me, Don, didn't we have somebody testify in here just a little bit ago that they were shipping this stuff overseas to other countries when they were recycling some of those computers and stuff that they picked out the ones that they could still use and sold them overseas? Or maybe you weren't here. [LB986]

SENATOR PREISTER: I can't speak to that. [LB986]

SENATOR LOUDEN: Okay. Continue. Go ahead and continue. [LB986]

SENATOR PREISTER: Some of them once they have been broken down can be shipped in other capacities but whole, I don't know. Currently, most of the e-waste discarded in the U.S. is exported to these foreign countries such as China, Africa and India. During this process these children and family members dismantling these waste products are exposed to the toxins as I mentioned. Lead is a neurotoxin and cadmium is a carcinogen that damages lungs and kidneys. Informal e-waste processing has become a common household cottage industry in these countries. It was recently discovered there is a connection between our exported e-waste and the lead found in recalled toys in children's products from China which are sold in the United States currently that you've heard the recalls about. A July 2007 article in the Wall Street Journal reports that two recent studies suggest that the lead in children's products can be directly traced back to lead solder from e-waste electronic circuit boards. So we're

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shipping the waste to China, these cottage industries are melting it down, they're putting the lead back into the paints and then sending the toys back for our children to play with and we're buying them. Each of the past eight years I've introduced bills and interim studies to address e-waste. Though several bills have been introduced at the federal level, Congress has not yet enacted an e-waste legislation. Ten states have passed legislation since 2001. California was the first state to pass an e-waste bill and is the only state to adopt the advanced recycling fee model which imposes a consumer tax at the time of sale on each covered electronic device. Since then nine states have passed producer responsibility e-waste legislation, including five states in 2007. The Council of State Governments has expressed opposition to the advanced recycling fee model and has supported this one, the producer responsibility model. Manufacturers throughout the country also support this producer responsibility model in order to establish a uniform system across the legislative spectrum in the country. LB986 establishes a streamlined producer responsibility program. My goal in the proposed tiered fee structure is to exempt small Nebraska businesses from paying any fees. It is not my intent to burden these businesses with additional expenses. Here are the main components of the bill. The bill applies to household televisions, computers and computer monitors. Retailers must report to Nebraska Department of Environmental Quality the number of each manufacturer's electronic devices it sold in the previous calendar year. It requires all manufacturers to register with DEQ and report the number of electronic devices it sold in Nebraska in the previous calendar year. A fee structure is contained in the bill based on the quantity of devices sold. Manufacturers that sold less than 500 are exempt from the fees. A manufacturer or group of manufacturers may submit a recycling plan which would be reviewed and may be approved by NDEQ. If the plan is approved, then 50 percent of that manufacturer's required fee would be waived so there's incentive for them to establish their own program. Manufacturers could not charge a fee to consumers for collection, transportation or recycling. DEQ would post a list of compliant manufacturers on their web site. After July 1, 2009 no retailer could offer for sale an electronic device from a manufacturer that is not in compliance with the act. All fees are deposited into the Waste Reduction and Recycling Incentive Fund and earmarked for e-waste grants to develop infrastructure, collect, transport, and recycle e-waste. There are a couple of technical changes that I do need to address about the bill. DEQ may subtract its administrative costs and we did that after seeing the fiscal note where they had some administrative costs and rather than take those out of general funds or anywhere else, I think it's appropriate to take those administrative funds from the fee and that would be certainly an amendment that I would be open to doing. There are redundant references to DEQ adopting rules and regulations. The references are on page 8 and 13 and those could also be deleted and counsel has probably seen those. I would urge you to advance the bill. I have met with the Chamber of Commerce. I have met with the retailers. I have met with the recycling industry. This is the preferred method that they would like to do it and Senator Loudon, after getting beat up on my other bills, and going the route that you're trying to do, I respect what you're trying to do. I've been there. (laugh) I've felt that and in listening to those folks I

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think they've come up with some good ideas and the biggest reason for doing it this way, eventually we are going to get a national program. It's probably going to be another five to seven years. I hope it isn't that long but realistically I know how Washington operates. If we do it this way, that's the way everybody else is going. It's the way the manufacturers want to go and then we've already got a beginning of it. And it does exactly what you want to do, Senator Louden. It provides part of the fees going out to do the grants, to do the collection just like you would like to do, and it gets the manufacturers to set up their own program so they take back their own waste. They contract with Goodwill. They contract with any of the state groups so we're not creating a new bureaucracy. We're not establishing new government programs. They set up their own and we give them flexibility. They can do it any way that they want to and when they set up their own, half of the money that they pay in for fee, they get back so there's incentive. And the other half goes for the orphaned waste and all of these other amnesty and other types of programs. So we create a model where the industry is willing to do it. They want to do it that way. Everybody wins and at that point, I don't know what else I can do. So I appreciate your attention today and all of the support you've been giving to this and I think we finally got something that everybody's pretty much in agreement on. [LB986]

SENATOR LOUDEN: Okay, thank you, Senator Preister. Questions for Senator Preister? Senator Carlson. [LB986]

SENATOR CARLSON: Senator Louden. Senator Preister, in listening in testimony that we've had today, and being one that has very little knowledge in this area, if we look at section 6 and the fees that would be registration fees based on the number of devices sold? [LB986]

SENATOR PREISTER: Yes. [LB986]

SENATOR CARLSON: These fees don't seem to me like they add up to what's necessary to get the job done because \$1,000 for 500 to a 1,000 devices, well that's either \$1 apiece or \$2 apiece; \$5,000 for anywhere from 1,000 to 2,500 sold; at 2,500 that's \$2 apiece; at a 1,000 that's \$5 a piece and then the next one is about \$3, \$3 or less apiece and one of the testifiers said that California was finding it took \$16? So I'm not arguing with the concept, but that doesn't look like it's enough money. [LB986]

SENATOR PREISTER: Senator, for somebody who doesn't really know this well, you hit the nail on the head again. You're absolutely right. This would raise less than a \$1 million and I believe you heard Miss Hakenkamp say that it would take approximately \$3 million to totally do the program. Fortunately, the manufacturers would be doing some of that so we may not need that total three million. Maybe we do but we, in looking at the figures and getting those latest numbers, we would need more than, and maybe those fees would need to be adjusted upward to collect more. You're right. But again, we tried

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to appease and do it in a way that wouldn't be even more burdensome to the manufacturers. But they...these fees and these schedules would not cover the total amount. You're right. [LB986]

SENATOR CARLSON: Okay. Thank you. [LB986]

SENATOR LOUDEN: Other questions? Seeing none, thank you, Senator Preister. And I presume you want to close. [LB986]

SENATOR PREISTER: I will. I don't think it will take real long but I will plan to be here if there are questions. [LB986]

SENATOR LOUDEN: Okay. First testifier. First proponent for LB986. [LB986]

JOE AHO: Good afternoon, Senator Louden and members of the committee. My name is Joe Aho. That is spelled J-o-e A-h-o. I am with Waste Management Recycle America. I'm based out of our regional electronics processing facility in Minneapolis, Minnesota. I'm a Minneapolis resident. I've been an employee of Waste Management for 19 years and I've been in the e-cycling industry for nine years. It's my honor and pleasure to share my personal experience and the experience of Waste Management, Waste Management Recycle America, with this committee. First off, we'd like to state that we do support LB986 as we see it. We would recommend a few modifications and have some points. First off, if I could I'd like to give you a little bit of overview of Waste Management and Waste Management Recycle America. Waste Management is North America's leading solid waste and recycling services provider with over 22 million customers. We operate Nebraska's largest landfill, the Pheasant Point landfill north of Omaha and we're recycle America, Waste Management Recycle America is a recycling entity of Waste Management. I work for the e-cycling group of Waste Management Recycle America. I've been very much in touch with electronics recycling over the years and would be happy to share some of the interesting points and successes and challenges that we've have in the state of Minnesota as we have implemented a producer responsibility bill with a similarity to LB986. Waste Management would like to bring something to the committee and to the state of Nebraska today. I am pleased to announce that we have a commitment between Waste Management, Sony electronics and Keep Omaha Beautiful to do an e-waste recycling event, an amnesty event that will include not only computers, computer monitors, computer peripherals, CPUs but also televisions from consumers that we will host at the Pheasant Point landfill coming up probably in the spring, late spring of this year. We have yet to determine a date but we are doing that as a clear demonstration of our support for the initiatives the private industry, the leaders, be them recyclers, solid waste professionals, original equipment manufacturers have to the issue of responsible recycling and management of electronic waste in the state of Nebraska. Waste Management was actually one of the first companies to issue an environmental stewardship pledge in 2002 that talked about how

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we view our commitment to the environment and to process things correctly. Some of the pictures that the senator showed of third-world processing commissions, conditions, rather, we are fully against. In 2002 we issued a corporate public statement saying we will not export any unprocessed material. All material that we collect is processed in North America. We use North America in processing for cathode ray tubes for CRT glass for circuit boards, and so forth. We do not employ prison labor nor do we support prison labor. We pay market wages for our recycling infrastructure as part of a corporate economic good citizen. Last year Waste Management and Sony electronics teamed up to have the first national takeback program between a major recycler, a major solid waste hauler and an electronics manufacturer. That program as it started has over 75 collection sites throughout the United States where consumers can bring any branded Sony product to one of our recycling network and drop that off for free. Sony has made a commitment to expand that program to cover recycling for 95 percent, or 90 percent of the population will be able to recycle within 20 percent of their home. We fully realize it's a challenge in some places. There are some areas outstate, and in greater Nebraska, throughout other parts of the country that are more challenged to serve than in metropolitan areas. We're in support of this bill and we're also support efforts that cover the broadest range of material. Most of our collection efforts involve not only computers, CPUs, computer monitors, and televisions, but also things like computer peripherals, VCRs, DVDs, stereos, and so forth, like that. So we applaud legislation that includes as much possible. We want to promote recycling programs vigorously. We want to encourage people to participate at the homeowner level. We encourage legislation that allows for the collection recycling infrastructure that is presently in place to be utilized. In the state of Minnesota, Waste Management of Minnesota owns or operates over 23 separate collection facilities that collect electronics from the general public and from small businesses as an ongoing part of their business. These facilities are primarily solid waste transfer stations, landfills, smaller material recovery facilities and the like. We support legislation that bans the use of prison labor. We believe a prison labor is unfair competition and it is inherently challenging to control. If you're a prisoner and you get to get out of your cell and demanufacture some electronics, you're not too terribly inclined to be a whistle-blower on environmentally questionable conditions. We would like to offer a couple of suggestions of modifications of LB986 and that would include the following language. Quote, a person shall not knowingly offer for transportation to a landfill or transfer station for disposal or delivery to a landfill or transfer station for disposal or the person is an owner or operator of landfill of transfer station knowingly permit the disposal of any covered electronics. Basically, as a landfill operator as a collection company we don't want to act as a police, we don't want to be left holding the bag. We want it to be prohibited that a person cannot put electronics in the garbage. We would like to include language that ensures all processors of electronic waste meet or exceed industry operating standards. Quote this, the department shall adopt standards for recycling or reuse of covered electronics in this state that are equivalent to the electronics recycling operation practices as approved by the board of directors of the Institute of Scrap Recycling Industries, which is called ISRI, dated August 25, 2006 or

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other standards from a comparable national recognized organization or the U.S. EPA. Included in the ISRI standards mentioned above are requirements for liability insurance, date of security and safety, measurable environmental management systems and a prevention of long-term storage of materials. In addition, downstream compliance by subcontractors, vendors, etcetera, should be included. The third point that we would like to see modification in the existing LB986 include language that prohibits the use of prison labor. Quote, a recycler may not use state or federal prison labor to process covered electronic devices or transact with a third party that uses or subcontracts for the use of prison labor. I'd like to speak a little bit about our experience in Minnesota. Waste Management has had an electronics recycling operation in the state of Minnesota since 1996. We developed that facility through an initial partnership and a demonstration program that included Sony, Panasonic, the American Plastics Council and the Minnesota agency at that time known as the Minnesota Department of Environmental Assistance. That program collected several million pounds of electronics throughout the state of Minnesota, used a variety of collection methods, including retail drop-off, curbside collection, collection at various solid waste and other facilities. It was deemed very successful. So we have a long-term commitment to recycling in the upper Midwest. Our Minneapolis e-waste processing facility is the only e-waste processing facility in Minnesota or in the adjoining states. It is actually ISO 9001 and 14001 certified. On the other end of the geography we also have an ISO certified processing plant in Denver, Colorado. Senator Loudon, I know that you're a little closer to Denver than other parts of the state. I would certainly personally invite you if you can come to Denver, see how we do it, see how we provide local economy with good jobs, responsible recycling and how our collection infrastructure right now in the state of Colorado is working, with we have seven facilities that collect electronics and then send them to our Denver facility for processing. In Minnesota, as the committee is probably aware, we enacted a piece of legislation that took effect this past summer, a producer responsibility bill. Prior to that in 2006, in the summer of 2006, the state of Minnesota banned the disposal of devices containing CRTs from any generators including residential and commercial. Since that time we've seen a real awareness grow in the state of the issue of waste electronics. I mean, why as I, as a consumer why should I handle this old television, this old VCR differently than putting it out in the garbage. We've really seen an awareness. We think it's great that we have been utilizing existing infrastructure. We're not looking to reinvent the wheel. I really believe that any disposal facility, waste transfer facility, materials recovery facility that accepts material from private parties and potentially has the opportunity and the mechanism to collect a fee from the general public should be able to collect e-waste. It's certainly not rocket science to collect or handle it so the infrastructure basically is there. We just have to add this additional waste stream. In the state of Minnesota we do have issues as Nebraska does with metropolitan populations versus outstate populations. Minnesota's legislation, you may be aware, provides a one and a half times incentive for manufacturers to collect material from outside the greater twin cities metropolitan area. That has been very helpful in kick-starting electronics recycling in outstate areas and we feel that's a very good point. In summary, I guess I'd

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like to again say we support LB986. Waste Management will continue to expand our commitment to environmentally sound responsible recycling. We're going to continue to join other dedicated original equipment manufacturers of electronics in their quest to do the correct thing and manage things appropriately. We are going to continue to promote the private sector solution to the issue of waste electronics and we are very proud and pleased to announce the event coming up later this year at Pheasant Point landfill in cooperation with Sony and Keep Omaha Beautiful. At Waste Management we like to think green and I would thank you again for the honor of testifying before you and I'd entertain questions. [LB986]

SENATOR LOUDEN: Questions for Joe? Seeing none, I guess you answered them all. [LB986]

JOE AHO: Thank you. [LB986]

SENATOR LOUDEN: Thank you for your testimony. Next testifier. [LB986]

CARRIE HAKENKAMP: (Exhibit 8) Senator Louden, Natural Resources Committee. Again my name is Carrie Hakenkamp, that's C-a-r-r-i-e H-a-k-e-n-k-a-m-p and I'm the executive director of WasteCap Nebraska and I'm actually here on two fronts. One to represent WasteCap, but one also to represent a group of organizations and businesses that have been working for the past couple of years to develop this type of legislation. We preferred the model that was introduced last spring but we're willing to go with this model and this is the first time in all the years that we have been doing this, again since 2001, that we've gotten this many organizations to sign on in support of one particular model, and you know, we don't have anybody that's not working with us on this. If you look at the back side of the letter that you've just been given, basically this letter just says that we urge you to support Senator Preister's producer responsibility bill in its originally written form with an adjustment in the fees to ensure that the costs of the program are covered. I know Senator Carlson had mentioned that the fees really probably wouldn't cover where we were at. In previous attempts and what they've done in other states is they have had your base registration fee plus either a per pound or a per unit fee. So the folks who have supported this legislation and have worked with us, you know, very diligently for the past couple of years include the city of Norfolk, CP Recovery out of Omaha, Goodwill Industries in Omaha, Grand Island and Lincoln, the Nebraska Chapter of the Sierra Club, the Nebraska Cornhusker Chapter of Solid Waste Association of North America or SWANA, the Nebraska Retail Federation, the Nebraska Solid Waste Association, the Nebraska State Recycling Association, the Nebraska Electronics Service Association, the Nebraska Educational Assistive Technology group, the Retrofit Companies which is out of Little Canada, Minnesota, which is one of the contractors that we work with who meet all of the standards that we set for our computer collections, and then WasteCap Nebraska. So with that, that ends my testimony on this letter on behalf of that group of organizations. [LB986]

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SENATOR LOUDEN: Questions for Carrie? Senator Carlson. [LB986]

SENATOR CARLSON: Senator Louden. So in looking at this, then, halfway down the first page, we support Senator Preister's bill in its originally written and submitted form with an adjustment in fees. So are you saying what's in here, you would ask for an adjustment in fees? [LB986]

CARRIE HAKENKAMP: Correct. [LB986]

SENATOR CARLSON: Okay. [LB986]

CARRIE HAKENKAMP: Just an increase in fees to ensure that there's enough money to cover the cost of the program. [LB986]

SENATOR CARLSON: Okay. Thank you. [LB986]

SENATOR LOUDEN: Other questions for Carrie? Seeing none, thank you. [LB986]

CARRIE HAKENKAMP: Okay. And then just my own personal testimony on behalf of WasteCap Nebraska, again, I appreciate the opportunity to come forward with this today. And Senator Preister has worked diligently again on this since 2001 and I appreciate his diligence in getting this out there and Senator Louden your willingness to address the issue as well. So we've been working since 2000 to educate businesses on proper end of life management. We do workshops in computer collections and apparently lobby as well (laugh) for these issues but what we have learned over the past eight years in doing all of this work is that it truly does cost about 50 cents per pound in order to host a computer collection. That 50 cents per pound includes your transportation, collection fees, recycling fees and then the upfront money for staffing time to plan the events. Our events take anywhere from 50 to 100 hours of staff time to plan so the funding that we would bring in would need to cover that if we're going to do these as grant programs. But then, you know, aside from that 50 cents per pound, there is also the issue of setting up the infrastructure which is also addressed in this bill. My suggestion actually with the producer responsibility model would be to follow what some of the other states have done and have a base registration fee which would help to cover the administration of the program for DEQ to administer the program as well as provide some funding for infrastructure development throughout the state. The 50 cents per pound or a per unit fee that could be developed to adjust those fees would then cover the cost of collection and recycling, would cover the cost of those grants. So this does create a funding mechanism to continue using funds out of the Waste Reduction Fund for grants. That's what we've done for the past seven, eight years is use that fund and again that money could have been spent on other projects and this creates an additional income. We do appreciate that the money that is all brought in is earmarked

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towards the electronics recycling program whether its program administration or recycling. One thing I did want to point out, one of our partners in the previous letter was Goodwill association and I did know that Dell pays Goodwill 75 cents per unit as part of their program and that's where their funding comes from. They don't have to do that in Nebraska but that's how they're managing a lot of their programs throughout the country. That 75 cents per unit is used to build infrastructure, it's used for technical assistance to do audits downstream to make sure that all the recyclers that are being utilized are meeting those requirements mentioned earlier. So really I just wanted to suggest that the fees proposed in the bill be increased and, you know, adding that per unit fee would help cover that 50 cents per pound cost. We do support everything else in the bill and so we do strongly encourage you to advance this legislation out of committee. If you have any questions. [LB986]

SENATOR LOUDEN: Questions for Carrie? Seeing none, thank you. [LB986]

CARRIE HAKENKAMP: Okay. Thank you again. [LB986]

KEN WINSTON: Senator Louden, members of the Natural Resources Committee, my name is Ken Winston, last name is spelled W-i-n-s-t-o-n. I'm appearing on behalf of the Nebraska Chapter of the Sierra Club in support of LB986. We did sign on to the letter that Miss Hakenkamp offered today, but I just wanted to add a couple of other comments. As has been previously indicated, this is a proposal that's been around for a number of years and it's been developed through collaboration from a lot of different people, discussions among recyclers, retailers and a bunch of other folks that are interested in this issue. So it's taken a lot of distillation to get to this point and so we believe that it reflects a lot of expertise by a lot of different people and we believe that based upon that, it makes sense for it to be advanced. One of the things that we like about this is, it does create a funding source to create recycling programs and I guess the one comment that I would make about recycling programs is that they need to be simple and economical for the consumer or consumers don't...tend not to use them. If they're unavailable or if they're expensive, people will tend to stick the stuff in the basement or they forget about it and it just sits and doesn't get dealt with, and so we think it's very important to set up programs to deal with the large volume of electronics that are, that currently not being recycled. And as it was indicated there's going to be a lot more electronics that are going to be ripe for recycling in the near future. And as has been previously indicated, we understand that the fees may need to be adjusted in order to pay for the cost of the program. With that I would be glad to answer questions. [LB986]

SENATOR LOUDEN: Any questions for Ken? Seeing none, thank you for your testimony, Ken. [LB986]

KEN WINSTON: Thank you. [LB986]

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SENATOR LOUDEN: Any more testifiers after Jim? One more. Okay. Two more. [LB986]

JIM OTTO: Senator Louden, members of the committee, my name is Jim Otto. J-i-m O-t-t-o, a registered lobbyist for the Nebraska Retail Federation here to testify in support of LB986. I've pretty much outlined the reasons that in my previous testimony as to why the retailers are for the producer responsibility bill. I would like to note one thing though, that Ken Winston and I have been friends for years but I think this is the first time that I'm aware of that the Nebraska Retail Federation and the Sierra Club have been on the same side of an issue (laughter). But we do, for reasons that have already been stated, as it...we are supportive of producer responsibility . We're on that letter that Carrie Hakenkamp gave to you so that's it unless there are any questions. [LB986]

SENATOR LOUDEN: Questions for Jim? Seeing none, thank you, Jim. [LB986]

JIM OTTO: Thank you. [LB986]

GARY LUND: Senator Louden, thank you for the opportunity. I'm Gary Lund, L-u-n-d, city of Norfolk, and I want to speak on behalf of the city of Norfolk and the Solid Waste Association today in support of the bill. I think hiding recycling costs is an excellent idea. I think if you look around the state all of the best and most productive recycling programs are hidden in the cost of your collection bill. You and I as consumers do not have to make a choice. We don't have to write a check. We don't have to decide where this is going. These are philosophical questions about taking care of our environment that it's difficult to put a dollar sign on and as much as possible, I think the cost for disposing of a computer at the end of its life should be zero. And I think that's what this bill does. I hope we have the equation proper with some adjustments in the fees. We may have to come back and ask for further adjustments in the future but I think, I'm really confident we have the right equation. Your questions earlier seemed to indicate that you're not certain whether the manufacturer needs to be a part of the solution, whether he needs to be paying for this. Aside from trying to reduce the amount of garbage that goes into a landfill, there are questions about the hazardous nature of these products. If you want to solve the problem then go to the guy that made the problem. You have to start with the manufacturer. I think that's absolutely critical that they feel the discomfort that we're having in dealing with this problem on the local level. So I think that the solution has to start with them. Everyone is a part of that, retailers, manufacturers and customers. They either got some benefit by using the product or by selling it and on the bottom end of that spectrum is a municipality. As a municipality we did not get any benefit from that 2,000 or so computers that are going to come through my system this year. We didn't make any money on it. We didn't get paid for disposing of it until now, I hope. So we're...we are very happy with the LB986 as it's written now and as Senator Preister said, we've been at this a long time. Been around the horn,

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seems like we're back to where we started almost. I hope we have something that we can pass and move forward on. I understand the Legislature's hesitation to deal with increased manpower requirements trying to keep the taxes down, and I'm sure you can appreciate it that as a municipality we're trying to do that same thing. So if there's any questions, I'd be happy to answer those. [LB986]

SENATOR LOUDEN: Questions for Mr. Lund? You said you disposed of 2,000 televisions or... [LB986]

GARY LUND: I'm just listening to what is being said but the amount of stuff that's being disposed. We have about 40,000 connected population to the city of Norfolk and the regional transfer station. Not the coalition landfill, has about 110,000 connected population so I'm just trying to extrapolate if a computer has about a four or five year lifespan and that's where we're in the 1,500, 2,000, 2,500 per year. [LB986]

SENATOR LOUDEN: Now at the present time are you just dumping them in your landfill? [LB986]

GARY LUND: The computers, I've made a recycling program available. It's \$15 for a complete computer system and we've had very, very limited use of that recycling program. As far as I know, they're all still sitting in garages, in basements. [LB986]

SENATOR LOUDEN: People have to pay \$15 to get them... [LB986]

GARY LUND: To recycle. [LB986]

SENATOR LOUDEN: Recycled? [LB986]

GARY LUND: Right. [LB986]

SENATOR LOUDEN: What about the TV sets? [LB986]

GARY LUND: Same thing. [LB986]

SENATOR LOUDEN: \$15? [LB986]

GARY LUND: Actually, actually they have in both cases, I'm giving the public a choice on that and most of the televisions are still going to the landfill. [LB986]

SENATOR LOUDEN: Okay. That's where they're going. [LB986]

GARY LUND: Right. [LB986]

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SENATOR LOUDEN: I just wondered they're talking about increasing the fee here should that 15 bucks in there suppose to be in here someplace then? [LB986]

GARY LUND: I am not privy to the exact numbers that they would propose for that. [LB986]

SENATOR LOUDEN: Okay. Other questions? Seeing none, thank you for your testimony. [LB986]

GARY LUND: Thank you. [LB986]

LYNN REX: Senator Louden, members of the committee, my name is Lynn Rex representing the League of Nebraska Municipalities. And we too strongly support this measure. I just want to underscore what Gary Lund just testified to about the impact of this measure on the municipalities because there are regional landfills across the state, there are a few cities that have their own landfill but notwithstanding, when the bill went through, which was LB1257 several years ago, to require municipalities and counties to implement subtitle D, that had a huge impact on cities and counties all across the state. The Legislature passed on the federal mandate. It was a federal mandate on the states. The federal...the state mandate then went to the cities and counties without any funding. So this has been a huge issue. I really want to congratulate Senator Preister on his endurance and patience in the years with which we have dealt with this issue, and I really appreciate his effort because this is a long time in coming and I just want to tell you how much...how significant this is. This is a very significant piece of legislation for the state of Nebraska and we strongly support this model and the National League of Cities does as well. So with that I'd be happy to respond to any questions that you might have. [LB986]

SENATOR LOUDEN: Questions for Lynn? Seeing none, thank you for your testimony. [LB986]

LYNN REX: Thank you. [LB986]

JEREMY McNEAL: Hello again. I'm Jeremy McNeal with CP Recovery, a computer recycling company in Omaha. I'm here today on behalf of our organization to support Senator Preister's bill for electronics recycling. I just wanted to reassert what was said in the letter earlier by Miss Hakenkamp that we do approve of this and we believe that this is the best possible and most economical way of building infrastructure for recycling electronics. Every year that we've been involved in this there's a growing number of electronics that we're seeing. Our company continues to grow and there's even more of a need. So I urge the council today to approve of Senator Preister's bill. It can never come too late. It will help assist in recycling computers and televisions. If anyone has any questions, I'd be more than happy to answer them. [LB986]

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SENATOR LOUDEN: Questions for Jeremy? Seeing none, thank you for your testimony. [LB986]

JEREMY McNEAL: Thank you. [LB986]

SENATOR LOUDEN: (Exhibits 9 and 10) Is that all those, proponents? I got some letters to read into the record in support of LB986, Ric Erdheim from Philips Electronics, and Gene Hanlon, city of Lincoln. Are there opponents against LB986? Anyone wishing to testify in the neutral on LB986? Seeing none, then I close the hearing on LB986. [LB986]

JODY GITTINS: Senator, Preister would like to close. [LB986]

SENATOR LOUDEN: Oh, sorry about that. [LB986]

SENATOR PREISTER: Senator, it was going so smoothly. (Laughter) [LB986]

SENATOR LOUDEN: Well, yeah, I thought maybe we...(Laughter) [LB986]

SENATOR PREISTER: Don Preister here. I just would encourage you. The stars have aligned. You heard the retailers and the Sierra Club, the Chamber of Commerce. I mean miracles have happened. (laughter) Now act quickly. So it...I just want, I appreciate Carrie Hakenkamp reading that list of names. You heard of the coalition. I want to give them a heartfelt thank you and not only this, there were other people involved. The League, I don't believe is on there. The chamber, the State Chamber of Commerce is not on there. At this point I don't know, we've taken everything into account. When you negotiate everybody doesn't get what they want but you heard it today, they're all in agreement. So just in case that changes, let's move quickly. (Laughter) [LB986]

SENATOR LOUDEN: When you say the stars are in line, that's all right but what we worry about is hope that planets aren't getting lined up here. (laughter). Questions for Senator Preister? Thank you, Senator. [LB986]

SENATOR PREISTER: Thank you to all of you too. You've also been very involved and I appreciate it. [LB986]

SENATOR LOUDEN: Now we close and you want to go into executive session. [LB986]

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Disposition of Bills:

LB986 - Advanced to General File, as amended.

LB1061 - Indefinitely postponed.

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Chairperson

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Committee Clerk