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Natural Resources Committee
January 19, 2007

[LB202 LB263]

The Committee on Natural Resources met at 1:30 p.m. on Friday, January 19, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB202 and LB263. 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: Okay, we're ready to open the Natural Resources hearing today on LB202 and on LB263. To start with, myself, I'm Senator LeRoy Louden from the 49th District. I chair the Natural Resources Committee. To my far right is Senator Wallman, from Cortland; and next to him over here is Senator Kopplin, from Omaha; Jody Gittins, our legal counsel for the committee; to my left is Vice Chairman Carol Hudkins, from Malcolm; next to her is Senator Deb Fischer, from Valentine; and on the end is our committee clerk Barb Koehlmoos. And entering and joining us at this time is Senator Mark Christensen, from Imperial. I ask that you turn off your cell phones or put them on silencers or whatever you have so there's no disturbance in the hearing room. Those wishing to testify on a bill should come to the front of the room when the bill is to be heard. As someone finishes testifying the next person should move immediately into the chair at the table. If you do not wish to testify but you'd like your name entered into the official record as being present at the hearing, please raise your hand and the page will circulate a sheet for you to sign. This list 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 are 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 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 is 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 committee. If you do not choose to testify you may submit comments in writing and have them read into the official record. No displays of support or opposition to a bill, vocal or otherwise, will not be tolerated. And if you need a drink of water while testifying just please ask the page. Also today our pages are Erin Frank from Bassett and Steve Scharf from Lincoln. And with that we will open the hearing on LB202 and since I'm the one that has that bill and will open it, I'll turn the meeting over to the Vice Chairwoman, Senator Hudkins. [LB202]

SENATOR HUDKINS: Thank you, Senator Louden. If there are those in the audience

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wishing to testify, it might be well if you would move toward the front of the room just simply to save time. Can we see a show of hands on who all is going to be testifying for this bill? All right. And those opposed? And is there anyone to oppose--anyone neutral? Okay. Not too many testifiers, Senator Louden, so whenever you are ready to begin, please do so. [LB202]

SENATOR LOUDEN: (Exhibit 1) Good afternoon, Vice Chairperson Hudkins and members of the Natural Resources Committee. My name is LeRoy Louden and that's spelled L-o-u-d-e-n and I represent the 49th legislative district. I am here today to introduce LB202. This bill deals with the governing boards of solid waste management agency that are created through interlocal agreements. Solid waste management agencies have the authority to impose liens on property for nonpayment of fees. I believe that if a governmental entity is going to exercise lien authority, that entity should be governed by people who are elected by the voters who will be affected by the end of these actions. That is why I've introduced LB202. This bill is actually a version of one that I introduced back in 2005. The committee adopted amendments and advanced it to General File. LB202 is the same as that bill as it was amended by the committee. Under LB202 a solid waste management agency that wishes to exercise its authority to impose liens would have to be governed by a board made up of elected officials. Those elected officials could be people who are elected to the office of mayor, city council, village board or county board. I've done some research into solid waste management agencies that were created by interlocal agreements. It's been somewhat of a challenge to find out how many such agencies there are and how those agencies are governed, however, I think I have found some information that is useful to the discussion of LB202. Solid waste management agencies may include one or more political subdivisions. Cities, villages and counties may join together to manage solid waste. This approach to handling the problems of solid waste is one that the Legislature has encouraged over the years as it intended to allow efficient and effective management. I do not have a problem with this policy and I believe it makes sense to pool resources when possible. Nevertheless, I also believe government units that levy taxes or liens should be made up of people who have been elected so that there is a connection between the powers exercised by the government and the people who are governed. As far as I know, there are 16 solid waste management agencies in Nebraska that were created through interlocal agreements. Of those 16, seven are governed by boards that are made up of elected officials and one of the 16 is not operating a landfill. So that leaves eight agencies governed by boards that may include people who are not elected. Of those eight, three that we know of do not bill patrons. They bill the haulers of the solid waste. Therefore, they do not use property tax liens. There may be others that also bill haulers and do not use lien authority. Basically what all this means is that LB202 would affect only a few of the state's solid waste management agencies. There may be as many as five affected but there may be fewer than five. Those few that would be affected would have two options if LB202 becomes law, as shown on the blue handout I've provided. One option is to revise their interlocal agreement so that their governing boards do not

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include people who are not elected. The other option is to operate as they do now with nonelected board members, but they would not be allowed to levy property liens against real estate. If an agency chose to operate with nonelected board members it could require the political subdivision that belongs to it to bill their patrons directly for the costs of services. For example, if a county A or city B and a village C have formed an agency to manage their solid waste and the board governing the agency includes nonelected members, the board could ask county A to bill patrons, city B to bill its patrons, and village C to bill its patrons. That way if a patron failed to pay, the member subdivision could impose a lien for nonpayment. If an entity that's a member of a solid waste board is already billing their patrons for solid waste services, this bill doesn't affect the kind of arrangement. A case in point is Crawford up there mixed up with SWANA. Crawford does their own billing in the SWANA area and SWANA then does their billing on an individual basis. So it can be worked out. I do not think that it would be difficult to comply with LB202 and I think that doing so would ensure that boards that exercise real property lien authority are accountable to the electorate. I have problems with some of these solid waste agencies that they're levying a property tax. Last year in Dawes County, I think there was seven or eight and before that there was five. Anyway, I think there's been about 13 tax liens levied against property in Dawes County alone and more than that in Sheridan County. And of course, this property can be sold for tax purposes and it's mostly on account of their solid waste disposal which its solid waste agency has authority to levy a lien. I just have a problem with it not being officials on there that are not accountable to the electorate. I do have an amendment to recommend to you to clarify today, a couple of points in the bill. The first lien authority deals with real property and not personal property and the amendment clarifies that. The second, the bill's intent is for boards that levy liens to be made up of elected officials only and that amendment would clarify that. And I'll be happy to answer any questions. [LB202]

SENATOR HUDKINS: Are there any questions for Senator Loudon? Seeing none, thank you, Senator. Is there support for this legislative bill? Please come forward. Persons speaking in support? Is there opposition? [LB202]

GARY KRUMLAND: (Exhibit 2) Senator Hudkins, members of the committee, my name is Gary Krumland. It's spelled G-a-r-y and the last name is K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in opposition to LB202. I've been asked to give you, and what is being handed out, are letters of opposition. One is from the mayor of the city of Gordon, the other is from two county commissioners from Sheridan County, and they wanted to get their opposition known and be on the record. The reason we are opposing the bill is that it does take away local control and takes away a tool that cities and counties use to enforce the solid waste management provisions of the state law. As many of you know, in the 1980s, the late '80s, 1988-89, the federal government adopted rules and requirements and laws that forced states to handle solid waste and to make sure that all solid waste generated within the state goes to a licensed landfill. In 1992 the Legislature adopted legislation which said it's the cities

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and the counties who are responsible for making sure that any solid waste generated within their jurisdictions went to a licensed landfill. And as Senator Louden mentioned, in order to comply with that to create licensed landfills to collect the solid waste, a lot of the cities and counties across the state joined together in interlocal agreements either to build a landfill or to create collection systems, but to take care of the responsibility that the state mandated on them. It's been, especially when it started, it was very controversial. On any time you site a landfill, you get opposition. People were having to do things that they didn't like to do; pay for collection of solid waste, make sure it was delivered to the proper places, and it is controversial and a lot of people opposed it. A lot of people refused to pay for the collection and those sorts of things, and some of these interlocal agencies had to issue bonds to build the landfills and was dependent on the fees. And so it's important for them to have the ability to collect the fees. The statute, and this is 13-2020, specifically authorizes government agencies who are dealing with solid waste management, they can either file a civil action in court or file a lien on property. And those of you who are not familiar with local governments, one of the ways that local governments, especially cities, can enforce debt for people who don't pay their bills is by liens. I mean, cities have authority to do that if people fail to pay their water bill or their sewer bill or the special assessment. So this is in line with the enforcement mechanism that cities have. The concern that we have about LB202, it requires that these interlocal entities either give up this mechanism to collect debt or to change the structure of their interlocal agencies. The agencies are all created through adoption of an interlocal agreement by the county board or the city council so it is made up, I mean, it is adopted. They enter into it on a action of an elected official. The rules of the agreement, the bylaws, are all created by adoption by these elected officials too. However, some of these boards meet quite often. They like to have appointed officials on there because of their expertise, just because the time involved, as you know, a lot of elected officials have full-time jobs. They just don't have time to serve, not only on the city council or county board, but on these other boards. And so it's the elected officials who choose to have some of the appointed officials on there. And they would like to continue to do that. But if they continue to do that under LB202, they lose this mechanism as an entity to collect this debt. So I guess that is the concern that the cities that are part of this have and I guess we just ask that you not advance the bill. We think it's micromanaging a task that the cities have been mandated to do and it just makes their job more difficult. And they are carrying out a state policy, the state mandated that they do that and so we just ask that they be given the tools to be able to do that. I'd be happy to answer any questions. [LB202]

SENATOR HUDKINS: Thank you, Gary. Are there questions? Senator Christensen.
[LB202]

SENATOR CHRISTENSEN: If this bill went through, could you not have the elected officials apply the lien, rather than an appointed person? Because if it's the city council...
[LB202]

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GARY KRUMLAND: Well, you could, but they... [LB202]

SENATOR CHRISTENSEN: ...they could apply the lien... [LB202]

GARY KRUMLAND: I mean that they would have to make that choice. There are reasons why they would want an appointed official on one of these entities and if the appointed official couldn't serve on there, it would have to change their operation, maybe make it less efficient. [LB202]

SENATOR CHRISTENSEN: Maybe I misunderstood this, but I thought this is dealing with placing a lien. If the mayor or the city council applied the lien, the appointed person could still work it. [LB202]

GARY KRUMLAND: Well, right now, though, the debt is actually to the agency. It's not necessarily, the way some of them are structured, it's not necessarily to the city or country, it's to the interlocal agency. So if the debt was transferred to the local government, that would have to change the operation too and make things a little more complicated than it is now. [LB202]

SENATOR CHRISTENSEN: Okay. So it's not as easy to get around as I was looking at. [LB202]

SENATOR HUDKINS: Senator Louden. [LB202]

SENATOR LOUDEN: Yeah, Gary. Explain to me how you'd have to change the structure. You said in your remarks there that if this was implemented, they'd have to change their structures. Why would they have to change it because all they have to do is just have an elected official appointed to it. [LB202]

GARY KRUMLAND: Well, that...I'm sorry. [LB202]

SENATOR LOUDEN: Now let me give you, for instance, Chadron had a city manager on there for a long time and when I passed this bill, or introduced this bill in 2005, Chadron put their mayor on there to represent the SWANA board, so they were in compliance then with this as far as Chadron's concerned. [LB202]

GARY KRUMLAND: But not every city or county chooses to put an elected official on. [LB202]

SENATOR LOUDEN: Well, it isn't the question whether we let them choose, it's... [LB202]

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GARY KRUMLAND: Well, I, but... [LB202]

SENATOR LOUDEN: ...a question whether or not they're going to be allowed to levy a lien without not being an elected official. [LB202]

GARY KRUMLAND: Well, I mean, they're facing a terrible choice then. They either have to appoint somebody--they may want an appointed official and the appointed official may have the expertise and the time to serve on behalf of the city or country. If they give that up and have somebody else on who may not want to serve, then they have to give up this mechanism. It's an issue that they've been mandated to carry this out on behalf of the state and now their tools are being tightened and restricted and that's a concern of the local officials. [LB202]

SENATOR LOUDEN: Now then you don't have a problem with a nonelected official levying a lien against your property tax or against your property? [LB202]

GARY KRUMLAND: Well, in this situation, the situation is set up by elected officials. It's the elected officials who vote to join the interlocal, it's elected officials who set the rules. It's elected officials who make the appointment on who is serving on the interlocal entity. Elected officials are involved and know what's going on. [LB202]

SENATOR LOUDEN: Okay. Did you read these letters that you introduced from Gordon and Sheridan Counties? [LB202]

GARY KRUMLAND: I glanced at them, yeah. [LB202]

SENATOR LOUDEN: Yeah. Okay. Did you notice in there they mentioned their--did they tell you in there how many votes that they had on this board? I think there's 18 votes on that board and did they...they didn't tell you anywhere in the letter how many votes that Sheridan County had or how many... The way that's set up out there, you get one vote for every 1,000 population and I think between Gordon, Sheridan County, Dawes County and Chadron, they've got more, they've got the majority of the votes on that. In other words, four men have the entire authority to run the place. [LB202]

GARY KRUMLAND: Um-hum. [LB202]

SENATOR LOUDEN: Did they tell you that? [LB202]

GARY KRUMLAND: No, but I guess I would say from a policy point of view, it's not specific necessarily just to the one place, although I know it affects that agency, but... [LB202]

SENATOR LOUDEN: But I mean, what I'm telling you is, there's an appointed official

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that has more than just one vote. He's actually got, I think, three votes. [LB202]

GARY KRUMLAND: Um-hum. But it's the elected officials who set up that system and the elected officials who appointed... [LB202]

SENATOR LOUDEN: Okay. [LB202]

GARY KRUMLAND: ...had, you know, appointed that person to the entity. [LB202]

SENATOR LOUDEN: Okay. Thank you. [LB202]

SENATOR HUDKINS: Any other questions? Okay, Gary, just a quick comment. If somebody doesn't pay their solid waste bill, can't you just give them more garbage? [LB202]

GARY KRUMLAND: Well... [LB202]

SENATOR HUDKINS: Never mind... [LB202]

GARY KRUMLAND: I don't...I mean, there is another option, you can go to court. And people have tried this, but if you have a \$20 fee that someone doesn't pay, it costs quite a bit more to go to court to collect the fee than it does... [LB202]

SENATOR HUDKINS: But somebody isn't going to go to court when it's just \$20 is owed. [LB202]

GARY KRUMLAND: Well, no, I mean, that's been discussed and I mean, that's...it's not a practical solution to collect these kind of fees, so the lien is really the only practical solution. [LB202]

SENATOR HUDKINS: Now I'm assuming that if someone doesn't pay what they owe, you no longer pick up, no, not you, but their garbage is no longer picked up. [LB202]

GARY KRUMLAND: Well, that's the dilemma because if you don't pick up the garbage, does it get dumped in the ditch... [LB202]

SENATOR HUDKINS: Ditch... [LB202]

GARY KRUMLAND: ...or somewhere else and therefore you're violating state law where you're mandated to make sure it goes into a licensed landfill. [LB202]

SENATOR HUDKINS: All right. Thank you. Anyone else in opposition? [LB202]

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GARY LUND: (Exhibit 3) Senator Hudkins, my name is Gary Lund, last name L-u-n-d, with the city of Norfolk, solid waste manager. I'm speaking on behalf of the Northeast Nebraska Solid Waste Coalition. We currently have one individual that has been appointed to the board. He is a member of the township where the landfill resides. That is one accommodation we gave to the neighborhood when we sited the landfill there. The county appoints that gentleman. The elected supervisors in Stanton County appoint that individual and I think that's an accommodation we need to continue to give to our neighborhood. That's one thing they requested, that they be on the board. I think as the bill is written, if I understand it correctly, we would not be able to place a lien. The threat of that lien keeps people honest. Do you just not pick up the trash? It's the county and the city's responsibility to ensure that that's done. That the state's--has given the local communities the responsibility to ensure that is done properly, whether you do it by a private collection or government collection or contract, however it's done. That's really not an option just to say we're not going to pick up the trash. In the past we have had two small communities that appointed their utility manager as members on the board. They needed the...they felt they wanted that expertise on the board at that time. Those gentlemen have been replaced by elected officials. So at this time, we have just one and we would like to continue operating that way with that neighborhood-appointed individual on our board. Do you have any questions for me? [LB202]

SENATOR HUDKINS: Are there questions? Senator Louden. [LB202]

SENATOR LOUDEN: Yeah, Mr. Lund, explain to me how you operate your operation. Do you have haulers that pick it up at these smaller towns and haul it into one landfill or how do you operate? [LB202]

GARY LUND: We have 23 members I believe right now, counties and municipalities and every one of those is different. We have just about every combination. Norfolk is a hands-off collection system. If you can drive a truck and it's safe on the street, you can pick up trash. We ask that they bring it to our transfer station; our transfer station delivers. The city owned and operated transfer station, delivers to the coalition. [LB202]

SENATOR LOUDEN: Then the city of Norfolk does their own billing? [LB202]

GARY LUND: The city of Norfolk... [LB202]

SENATOR LOUDEN: Who does the billing for the people in Norfolk? [LB202]

GARY LUND: ...bills the customers as they come into the transfer station. Now, those customers would also pay a collection fee. [LB202]

SENATOR LOUDEN: Do you have a tipping fee then or do you have... [LB202]

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GARY LUND: Yes. [LB202]

SENATOR LOUDEN: ...or do you have a monthly fee then in Norfolk. [LB202]

GARY LUND: Yes. Tipping fee. The system... [LB202]

SENATOR LOUDEN: Okay. In other words you're billing the haulers. [LB202]

GARY LUND: Um... [LB202]

SENATOR LOUDEN: The people that are hauling it in are the ones that get billed. [LB202]

GARY LUND: Right. We have customers who come in. We have the moms and pops we call them, individuals that bring in... [LB202]

SENATOR LOUDEN: Um-hum. [LB202]

GARY LUND: ...cleaning up the backyard or whatever. We're open to whoever wants to come in, but everybody pays on a per ton fee. [LB202]

SENATOR LOUDEN: Okay. And then does Northeast Nebraska Solid Waste Coalition have a billing department to bill individuals out through your system? [LB202]

GARY LUND: Yes. [LB202]

SENATOR LOUDEN: Okay. [LB202]

GARY LUND: And that's the same system. You go across the scale, weigh the loads and it's billed on tonnage to that customer. [LB202]

SENATOR LOUDEN: But it isn't a monthly billing system. [LB202]

GARY LUND: No, it's not. [LB202]

SENATOR LOUDEN: In other words, if a person doesn't bring anything in this month and doesn't have anything to bring in, then they're not on a monthly billing system. [LB202]

GARY LUND: Correct. [LB202]

SENATOR LOUDEN: And how about--and does that work that way through your whole system? [LB202]

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GARY LUND: Yes. I don't believe there are any communities with a tax base operation, I don't think. [LB202]

SENATOR LOUDEN: Okay, but your coalition doesn't do individual billing of any kind. They just bill actually the haulers of the villages or towns or entities that bring it in. [LB202]

GARY LUND: Right. Yeah. We bill for the waste. [LB202]

SENATOR LOUDEN: Yeah. [LB202]

GARY LUND: There's no membership fees or tax base revenue. [LB202]

SENATOR LOUDEN: Now somebody--how do you handle that, then, if somebody doesn't pay your bill? [LB202]

GARY LUND: We have gone to collection. [LB202]

SENATOR LOUDEN: But I mean how do you do that then if it's just a person that brings a truckload of it in and then you don't bill it against their property because they just brought it in in a truck. Is that correct? [LB202]

GARY LUND: We have never used a lien. [LB202]

SENATOR LOUDEN: Okay. Well then what I'm wondering is, does this bill even affect you? [LB202]

GARY LUND: Well, I think the ability to place that lien keeps people honest. They understand that they have an obligation for that that they did, and from a legal standpoint, I don't know how many options we have to go after them. We'd go to collection first and I don't know whether a lien would be our second alternative. [LB202]

SENATOR LOUDEN: But if you don't pick it up at some person's particular place they live or business or something like that, there's no way of putting that lien against a property. I mean, you can put liens, but they would never be a property tax lien, would there? [LB202]

GARY LUND: A customer, an individual customer, I would think that we could go that route. A business, we'd probably go after the business properties. [LB202]

SENATOR LOUDEN: Um-hum. Okay. Well I really don't think that LB202 would make any difference for you. [LB202]

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GARY LUND: Okay. [LB202]

SENATOR LOUDEN: I think it would operate the same, that's the way it was designed, anyway. As long as you're not billing individually and assessing it against the property tax lien, there's no problem. [LB202]

GARY LUND: Okay. If that's the way that would function, then we could live with it. [LB202]

SENATOR LOUDEN: Okay. Thank you. [LB202]

SENATOR HUDKINS: Are there other questions? Thank you for coming. [LB202]

GARY LUND: Thank you. [LB202]

SENATOR HUDKINS: Further opposition? Anyone else want to speak against the bill? Is there neutral testimony? Seeing none, Senator Louden, do you wish to close? [LB202]

SENATOR LOUDEN: I'll waive the closing. [LB202]

SENATOR HUDKINS: Having waived closing, that will close the hearing on LB202. And Senator Louden, if you'd like to take the chair back? [LB202]

SENATOR LOUDEN: Okay, are you ready to... [LB263]

SENATOR HUDKINS: Yes. [LB263]

SENATOR LOUDEN: ...do your presentation, Senator Hudkins. [LB263]

SENATOR HUDKINS: (Exhibit 4) Good afternoon, Senator Louden, and members of the Natural Resources Committee. I'm Carol Hudkins, H-u-d-k-i-n-s, and it's my pleasure to bring to you today LB263. I'm having passed out to you an amendment which then becomes the bill. And it is that amendment that I would like to discuss today, so just forget the green copy. The white copy doesn't change the overall purpose of the bill, which is to try and lower the costs associated with making modifications to operating plans under the Integrated Solid Waste Management Act. Currently, any modification requires notice and public hearing. Even the most mundane change, such as an address change for mailing a notice, requires publication of a notice and a public hearing. What the white copy does is make it clear that modifications which make changes that do not relate to the health and welfare of the public or that actually increase the protection of the health and welfare of the public, and the modification is

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reviewed and approved by DEQ, and is found to meet the definition of a minor modification, there will no longer be need for a publication of notice or a public hearing on the request. This simple change will save not only the applicant time and money, but it will also save the state time and money, so it may deal with more major issues that do, in fact, have potential negative impacts on the public health and welfare. Thank you for your time and there are witnesses behind me who can speak to the impact of the current law and how it is affecting them and how they view the white copy, the amendment, to LB263. Are there any questions? [LB263]

SENATOR LOUDEN: Any questions for Senator Hudkins? Seeing none, I guess, proponents? The first--those that want to testify in favor? [LB263]

BILL UPMAN: Thank you. My name is Bill Upman, spelled U-p-m-a-n. I'm the environmental engineering manager for Waste Management of Nebraska. I also provide engineering services for our company for Missouri, Kansas and Iowa. I'm a regional engineer. Waste Management of Nebraska is here in support of LB263. This bill defines what a minor modification is and does not leave it open-ended as some other states do. The intent of this bill is to eliminate delays and expenses for very minor changes in operating permits for solid waste landfills. These are primarily operations and business changes and do not, are not modifications that would adversely affect the protection of the environment. We looked at several other states and there's a wide range of approaches in how the different states do this for minor modifications. Some are very broad in their definitions and that's not the objective of this bill. All modifications still need to be approved by the DEQ. Senator Hudkins' amendments place the same standards for the existing variance requirements that are already in place, that is, the protection of the environment, health and welfare of the state of Nebraska. Thank you and I'd be happy to answer any questions. [LB263]

SENATOR LOUDEN: Any questions for Mr. Upman? I would have one question. [LB263]

BILL UPMAN: Yes, sir. [LB263]

SENATOR LOUDEN: Where are you based out of again? [LB263]

BILL UPMAN: I'm out of Kansas City. [LB263]

SENATOR LOUDEN: Okay. [LB263]

BILL UPMAN: And I'm basically the regional engineer for Missouri, Iowa, Kansas and Nebraska for our company. [LB263]

SENATOR LOUDEN: Okay. Thank you. [LB263]

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BILL UPMAN: Thank you. [LB263]

SENATOR LOUDEN: Other proponents? [LB263]

KELLY DANIELSON: Good afternoon, I'd like to thank Senator... [LB263]

SENATOR LOUDEN: Would you give the lady your green sheet? [LB263]

KELLY DANIELSON: Oh. Yeah, right. No, I didn't. [LB263]

SENATOR LOUDEN: Thank you. [LB263]

KELLY DANIELSON: Sure. My name is Kelly Danielson, K-e-l-l-y D-a-n-i-e-l-s-o-n. I'm from David City, Nebraska. I'd like to thank Senator Hudkins for introducing this bill. I'm employed by Waste Connections which is a national solid waste company. We hold a number of solid waste permits in Nebraska: transfer stations, landfills, recycling centers, those type of things. We're testifying in support of LB263 and rather than reiterate what the waste management representative said, I'll just tell you that operational plans and permit applications are dynamic documents that over a five-year period, need minor changes to them. And it's really difficult--in the past year, we've had, I think three to four public notices on simple things that just takes time and money and seems to be a real waste of time in our opinion. So we really think it's a wise thing to do for DEQ's sake and for our sakes. The final thing I'll mention that I think you'll--the next few people that come up here--are going to have the League of Municipalities and SWANA and Waste Management and Waste Connections all on the same page. In previous hearings, we're usually on opposite sides so I think that's a positive thing, that we're all for this bill and I think this is a positive step, so. If anybody has any questions? [LB263]

SENATOR LOUDEN: Questions for Kelly? [LB263]

KELLY DANIELSON: Thank you very much. [LB263]

SENATOR LOUDEN: Wait, I have one or two. [LB263]

KELLY DANIELSON: Oh. [LB263]

SENATOR LOUDEN: Where are you from again? [LB263]

KELLY DANIELSON: David City. [LB202]

SENATOR LOUDEN: You're from Kansas City too? [LB263]

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KELLY DANIELSON: David City. [LB263]

SENATOR LOUDEN: David City. Okay. Now, are you the guys with the green and yellow wagons? [LB263]

KELLY DANIELSON: That's the previous ones. We're the blue guys. [LB263]

SENATOR LOUDEN: You're the blue guys (laughter). Okay. That's what I was wondering, which ones you were. [LB263]

KELLY DANIELSON: Yeah. [LB263]

SENATOR LOUDEN: What do you, do you operate a landfill or... [LB263]

KELLY DANIELSON: Yeah, we have a landfill in David City, Butler County... [LB263]

SENATOR LOUDEN: Okay. [LB263]

KELLY DANIELSON: ...near Milford, one in Ogallala and we operate one for the coalition, for Gary Lund. [LB263]

SENATOR LOUDEN: Okay. Where do you operate that one at? [LB263]

KELLY DANIELSON: Near Norfolk, between Norfolk, Columbus and Fremont, Stanton... [LB263]

SENATOR LOUDEN: Is that the one the city of Norfolk goes to? [LB263]

KELLY DANIELSON: Yes. Yep. [LB263]

SENATOR LOUDEN: Okay. Do you levy liens against property? [LB263]

KELLY DANIELSON: We do collection and I think, yeah, we would, probably; I think privately. For sure like on a construction project, if we do a construction job where we haul away for a demolition project and they didn't pay us, we would... [LB263]

SENATOR LOUDEN: Those demolition deals? [LB263]

KELLY DANIELSON: Yeah, we would... [LB263]

SENATOR LOUDEN: Okay, then you would do it with a contractor...you'd do it with a land owner. [LB263]

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KELLY DANIELSON: Yeah. Generally it's with the land owner. Whoever is...to get the contractor to pay. [LB263]

SENATOR LOUDEN: In other words it would be similar to a mechanic's lien or... [LB263]

KELLY DANIELSON: Exactly. [LB263]

SENATOR LOUDEN: Okay. Or is it, does it, is it a property tax lien is one that goes against the taxes and it can be sold for taxes. [LB263]

KELLY DANIELSON: No, we can't do that. Ours is more of a mechanic's lien. [LB263]

SENATOR LOUDEN: Yours is a mechanic's lien. [LB263]

KELLY DANIELSON: Yep. [LB263]

SENATOR LOUDEN: Okay. Thank you. [LB263]

KELLY DANIELSON: You're welcome. [LB263]

GARY LUND: (Exhibits 5 and 6) Gary Lund again with the city of Norfolk. Last name L-u-n-d. I'd like to deliver a letter of support from the city of Norfolk and one from the Solid Waste Association. The Solid Waste Association has currently in Nebraska, about 80 members that are involved with solid waste management landfill transfer station operations in the state of Nebraska. I think this is a wonderful idea. I think the state has other things that they need to be doing. I use to work minutia and I think you said mundane. I think we are talking about the same type of things. Whether I have three equipment operators or two equipment operators and one mechanic, it's probably not of concern whatever to my neighbors. They expect us to use good judgement, the latest technology, whatever is needed to ensure a clean environment at the best cost possible. And there are just some things that we need to do on a daily basis, on operating day-to-day operation basis that we need to do quickly and easily. Certainly there must be some distance between absolutely required in a permit which we would require probably 90 days to get a change, and we don't care at all. There's got to be some latitude in between there for the NDEQ to administratively make an adjustment. And as the senator was reading the bill, it struck me that perhaps NDEQ now does not have authority to tell me to do anything that's not already in the permit. And while one side of me smiles when I think of that, that's probably not wise. They should be able to administratively make a comment. We had a fire at the landfill and they indicated that we should give some consideration to where we put those litter cages which act as lightening rods. Well, they can suggest that, but they cannot tell me to do that without going to the public and spending a 90-day period of time to make an official change in

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the permit, so I think it's a great idea. I think the NDEQ needs this flexibility to be effective. Questions? [LB263]

SENATOR LOUDEN: Any questions for Mr. Lund? Seeing none, thank you. [LB263]

GARY LUND: Thank you. [LB263]

GARY KRUMLAND: Senator Louden and members of the committee, my name is Gary Krumland. It's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB263. I appreciate Senator Hudkins introducing the bill and the amendment. It will allow efficiencies and cost savings without affecting the environment and the health and safety of people, so we are in support of this. And I will repeat what Kelly said. It's not often this committee sees all of the private companies and the public together on one side of a bill, so better take advantage of it. [LB263]

SENATOR LOUDEN: Questions for Gary? Seeing none, thank you, Gary. [LB263]

GARY KRUMLAND: Um-hum. [LB263]

GENE HANLON: (Exhibit 7) Good afternoon, Senator Louden and members of the committee, my name is Gene Hanlon, H-a-n-l-o-n. I'm employed with solid waste operations for the city of Lincoln, Nebraska. We operate a landfill north of Lincoln. We currently receive 300,000 tons of material a year in that facility from Lincoln and Lancaster County. And we're here to pass on a letter from the director of Public Works and Utilities for the city of Lincoln in support of this bill. We believe that the Nebraska Department of Environmental Quality staff should be allowed the flexibility to review the minor changes in our operating permits as outlined in the legislation. I think it's a smart thing to do and saves taxpayers time and money. Any questions? [LB263]

SENATOR LOUDEN: Any questions for Gene? Seeing none, thank you. [LB263]

GENE HANLON: Thank you. [LB263]

SENATOR LOUDEN: Any other proponents? Any other opponents? Anyone wishing to testify in neutral? [LB263]

DAVID HALDEMAN: Good afternoon, Chairman Louden, and other members of the Natural Resources Committee. For the record my name is David Haldeman. My last name is spelled H-a-l-d-e-m-a-n, and I'm the division administrator for our waste management division of the Nebraska Department of Environmental Quality. This afternoon I'm testifying in a neutral capacity for the department concerning LB263. As you are aware, the bill presents primarily two changes to the Integrated Solid Waste Management Act concerning modifications to permits that the department issues for

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solid waste management facilities. The first change would eliminate a requirement for public notice and opportunity for a hearing on minor modifications to approve permits. The second change provides clarification to the first by specifically identifying the types of modifications that will be considered minor modifications and subject only to department approval. The department agrees in concept to the first change proposed in the bill. The permits that we issue are very comprehensive, in that they provide great detail in the design and the operation of a facility. From time to time a facility may determine that changes are necessary to the existing permit and some of those changes may be minor because they would not adversely impact human health or the environment or be changes that would be of little or no interest to the public. Last year a similar bill was introduced; that bill was LB871 and the department testified in support of that bill. We felt that eliminating the requirement for public noticing every modification to an approved permit would eliminate some of the administrative burden imposed by the department on our regulated facilities. The second change proposed in the bill identifies modifications to a permit that would be considered minor and not require public notice and opportunity for a hearing. We think it is helpful to identify modifications considered minor in nature because by doing so, it will provide direction and clarification to the department and the regulated facility when modifying permits. However, some of the existing language allows a wide range of opinions with regard to what would be considered a minor modification, some of which would benefit from an opportunity for public input. For example, one of the modifications proposed in the bill as minor is changes to the cost estimates or the financial assurance instrument. As proposed, this change could entail substantially decreasing the cost estimate which might be of interest to the public and have a bearing on adequate funding of the closure, maintenance and monitoring of the facility after it is closed. That type of proposed change in the decision-making process by the department for approval would benefit from public input. However, if the change is simply to increase the cost estimate due to inflation, we would consider that change minor. We noted two other proposed minor modifications, those being the changes in design or depth of a monitoring well, and changes to the statistical method used to analyze ground water quality data that might also raise some concerns by the public, and believe notice for these activities is appropriate. And Senator Hudkins, I did have a chance to look at the white copy that you have and I noted you did eliminate that provision concerning the statistical analysis, that's correct. Again, we generally support the concepts proposed in this bill but are raising the issues for the committee's consideration during its deliberation on the bill. We would be glad to provide information to the committee and Senator Hudkins and work with you on these concerns, and as you determine appropriate and necessary. That pretty much concludes my testimony and I'd be happy to try to address any questions that you might have. [LB263]

SENATOR LOUDEN: Any questions for David? Seeing none, David, thank you. [LB263]

DAVID HALDEMAN: Thank you very much. [LB263]

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SENATOR LOUDEN: Anyone else wishing to testify in a neutral position? Seeing none, then do you wish to... [LB263.]

SENATOR HUDKINS: No, I'll waive closing. [LB263]

SENATOR LOUDEN: Senator Hudkins waives closing. With that, we close the hearing on LB263 and close the hearings for the day. [LB263]

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Disposition of Bills:

LB202 - Advanced to General File, as amended.

LB263 - Advanced to General File, as amended.

Chairperson

Committee Clerk