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Natural Resources Committee
February 22, 2007

[LB503 LB583]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, February 22, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB503 and LB583. Senators present: LeRoy Loudon, Chairperson; Carol Hudkins, Vice Chairperson; Tom Carlson; Mark Christensen; Annette Dubas; Deb Fischer; Gail Kopplin; and Norman Wallman. Senators absent: None. [LB503]

SENATOR HUDKINS: If we could take our appropriate chairs and I'll explain the rules of the committee. First thing, turn off your cell phones, turn off your pagers. We don't like those going off and once in a while even a committee member is guilty of that so we always remind everyone. I would like to introduce the people that are in the room today, the people up here. Senator Norm Wallman, to my right, is from Cortland; Senator Annette Dubas, is from Fullerton; Senator Tom Carlson, is from Holdrege; Senator Gail Kopplin, is from Gretna, and Jody Gittins, is our committee counsel. The chair of the committee is LeRoy Loudon, and he is absent at the moment because he is presenting a bill in another committee. I am Senator Carol Hudkins, from Malcolm. I'm the vice chair of the committee, and so that's why I'm beginning things this afternoon. Joining us also on my left is Senator Mark Christensen, from Imperial; and our committee clerk is Barb Koehlmoos. There will be senators going in and going out and if you've attended hearings before, you know that that's the usual practice. It's not a sign of disrespect, but we do have responsibilities to introduce our bills in other committees. And in fact, I'll be leaving to introduce one of my own later. The pages today are Erin Frank, from Bassett, raise your hand Erin, and Michael Schaeffer, also from Lincoln and they are both students at the University of Nebraska-Lincoln. If you would like to testify on a bill, please come to the front of the room when that bill is called, that just makes the process a little smoother. And as someone finishes their testimony, just please come up and take that seat. You don't have to ask or to wait to be asked if there are other supporters or other opponents. If you don't wish to testify but would like to have your name entered into the record as being present, just wave your hand and one of the pages will circulate a sheet for you to sign, and this list will be part of the official record. This year we are using a computerized transcription program and so we must insist that you fill out a green sheet which are found at the back of the room, and deposit those in the box by the committee clerk just before you testify. Senators and staff also have to fill those out so we're not just picking on you. If you are testifying on more than one bill, you have to fill out a sheet for each separate bill. Please print your name and your address. Maybe you can read your handwriting, but perhaps transcribers won't be able to and if they have a question, this is the information they use to contact you to answer any concerns that they may have. As you begin your testimony, please state your first and last name, please spell your name, even if it's easy and if you don't, I will interrupt you. Please keep your testimony concise. I don't believe we are going to have time limitations today, but if you go on for 15 or 20 minutes, I will stop you. If you have handout material,

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please make that wish known to one of the pages and they will circulate it to the committee. And if you have a written testimony but you don't care to testify in person, you may ask that the written testimony be made part of the record. We don't allow hissing or booing or cheering. And if you need a drink of water, please ask the page. We are here to try to make you feel comfortable. And now I think we're ready for the first bill which is, and Senator Mines is not here? He's on his way. So we'll stand at ease for just a minute until Senator Mines is here and we'll begin testimony on LB503. So if you are here to testify on that bill, be ready to come up as Senator Mines is finished. We will take supporters first and then opponents and if there is any neutral testimony, they will be taken last, and then the same method will be used with LB583. So if there are no questions we'll just be patient until Senator Mines gets here. [LB503]

EASE [LB503]

SENATOR HUDKINS: Welcome, Senator Mines. [LB503]

SENATOR MINES: I am so sorry, we thought we were second. Evidently we were wrong (Laughter). My apologies. [LB503]

SENATOR HUDKINS: We have already explained the ground rules so you're ready to go. [LB503]

SENATOR MINES: Thank you, Senator Hudkins, members of the committee, my name is Mick Mines, M-i-n-e-s, and I represent the 18th Legislative District. I am the principal introducer for LB503. My opening is three paragraphs. This bill is not difficult to understand. It amends Section 2-3215 and would change the time when a vacancy on a natural resources board would be filled by an elected replacement. Instead of the appointment replacement serving for the balance of the expired term which is what happens today, the vacancy occurs at any time except on or after August 1 in an even-numbered year, the replacement will be elected at the next general election just as we do for schools boards and the Legislature. There are individuals following me that can answer specific questions and I would encourage you to advance the bill to General File. I'll entertain any questions. [LB503]

SENATOR HUDKINS: Are there questions for Senator Mines? I would ask one, Senator. The reason for doing this is to make it similar to what we do in the legislative races? [LB503]

SENATOR MINES: Yes. In conformance...when you have a vacancy, rather than appoint to serve for the rest of the term, this would simply say that if there is going to be a primary or general in the way, let's let people vote on that replacement as opposed to letting them go for the next, the rest of the term, and we do that for the Legislature, school boards and that kind of thing. [LB503]

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SENATOR HUDKINS: All right, thank you. Any other questions? Thank you. Will you be here to close? [LB503]

SENATOR MINES: I will not, but thank you very much. [LB503]

SENATOR HUDKINS: You're welcome. Would the first person who is in support of this bill please come forward? Senator Bromm, welcome. [LB503]

CURT BROMM: (Exhibit 1) Good afternoon, Senator Hudkins, Vice Chair, and members of the committee. For the record, my name is Curt Bromm, C-u-r-t B-r-o-m-m. I am here as a lobbyist for the Papio Valley Preservation Association which is a large group of about 400 folks or so, primarily in Washington and Douglas Counties, but also with members from outside of that particular geographical area. The bill was suggested by the group that I represent and it's primarily because I think that the NRDs in their roles and capacities now, are in a lot more, I guess, crucial position sometimes to influence public policy whereas when the NRDs were first organized and started, they of course, picked up all of the responsibilities of various small districts of flood control, irrigation and so forth, and were organized in a basin organization which is a great concept that I think has proved to be successful. But as the responsibilities and the amount of money that's handled and sometimes the objectives broaden, it's our position that it's more appropriate if there should be a vacancy and the vacancies were a rather long period of time, two, three, three and a half years, and if there's a general election intervening, that it's appropriate to make the vacancy filled temporarily by appointment of the board. But when the election occurs, people speak once again as to who they'd like as their representative. I have handed out to you some statutes to show you some other political subdivisions that operate in that fashion. The public power and irrigation districts have that provision. The board of regents does. This is the way school boards are handled if there is a vacancy, the appointment by the board of the successor lasts until the next election basically. And obviously you know the Legislature operates that way. Representatives in Congress operate that way, and our United States senators, that is also the case. So not a big bill, not a huge bill, but one that we just think makes a lot of sense and really can't see a downside. If we were asking for a special election or something where there would be quite a bit of money involved, extra expense, that I think would maybe be of a big consideration. But if the person is appointed or selected by the board members that are there, they do a good job, they certainly have the leg up for getting elected when that election time comes and that's appropriate. So with that I won't take any more time, Senator Hudkins, and be happy to try to answer questions if there are any. [LB503]

SENATOR HUDKINS: Senator Christensen. [LB503]

SENATOR CHRISTENSEN: Thank you, Chairman. Okay, the way it's been previously,

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let's say somebody had two years left on their term and they so you'd appoint somebody to fill them two years and now you're saying they would be elected in this general election? [LB503]

CURT BROMM: If they were appointed, if the vacancy occurred prior to the August 1 date in an even-numbered year, and that date is because that's how much time really is needed for someone to file and the ballots to be prepared properly and so on. If the vacancy occurs before that time so that there's a chance for people to file for that seat, the person appointed would serve until after the election and until January when their replacement has been elected and takes office. [LB503]

SENATOR CHRISTENSEN: I guess my question is a little different. Let's say I've got two years left to serve and I resign. [LB503]

CURT BROMM: Right. [LB503]

SENATOR CHRISTENSEN: Now, and let's say it is after August 1. Is somebody going to be elected, or is somebody going to serve two years out and then the election? [LB503]

CURT BROMM: They will serve until the January after the election. Now if that election comes up the following November, let's say your vacancy is in June, you resign in June and it's in an even-numbered year, so there's an election. You would serve until January of the following year. If it's in an odd-numbered year, there would be no general election for a year and a half, so you'd serve that year and a half. [LB503]

SENATOR CHRISTENSEN: Right. So in other words, even though my term wasn't up for at least two years, there would be an election right away. [LB503]

CURT BROMM: Correct. [LB503]

SENATOR CHRISTENSEN: Okay. That's what I want clarified. [LB503]

CURT BROMM: I hope I answered it. [LB503]

SENATOR HUDKINS: We've been joined by Senator Deb Fischer. Are there any other questions? Senator Kopplin. [LB503]

SENATOR KOPPLIN: Curt, I'm still a little bit fuzzy on this. NRD board members serve for how many years? [LB503]

CURT BROMM: Four. [LB503]

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SENATOR KOPPLIN: Okay, so if there were two years left on the person's term that resigned and then you have this election, is that elected person serve just two years and then go through election again? [LB503]

CURT BROMM: Well with, you know, it's like the Legislature. Depending on...they have staggered terms and so... [LB503]

SENATOR KOPPLIN: That's why I'm asking. [LB503]

CURT BROMM: Right. So it could be that when they were elected, they would serve for four following that election where it could be that they would only serve for two depending on the term of the person they were filling out. Because the different board members' terms expire at different times. [LB503]

SENATOR KOPPLIN: Right. And I guess that's where I'm a little confused because you could change the order in which everybody gets elected. [LB503]

CURT BROMM: Well, it's just like the Legislature. I can remember we had one vacancy once where there was an appointment and they had to...then there was an election within less than a year and they had to run but two years later they had to run again. Because the term that they were filling in for... [LB503]

SENATOR KOPPLIN: Okay. That's what I'm asking. [LB503]

CURT BROMM: That's how this... [LB503]

SENATOR KOPPLIN: It's quite possible their first election is really for two years. [LB503]

CURT BROMM: Exactly right. [LB503]

SENATOR KOPPLIN: And after that they're back on schedule for four. [LB503]

CURT BROMM: That's right. [LB503]

SENATOR KOPPLIN: Okay. [LB503]

SENATOR HUDKINS: Any other questions? So really, Curt, the magic word is August 1, right? [LB503]

CURT BROMM: That's right. [LB503]

SENATOR HUDKINS: Okay. Seeing no other questions, thank you very much. [LB503]

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CURT BROMM: Thank you for your time. [LB503]

SENATOR HUDKINS: Are there other supporters of this bill? Is there opposition to the bill? [LB503]

CURT FRIESEN: (Exhibits 2, 3) My name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I have a handout here. Senator Hudkins and the rest of the committee, it's nice to see you here. I know most of you I guess, but some of you I don't. On behalf of the NARD, I'm chairman of the Upper Big Blue Natural Resources District and I'm testifying in opposition to LB503. I'm aware of the issue that this bill has been brought before the committee and I want to explain to you what has been done to resolve it. Included in my testimony is a copy of the memo from the Nebraska Attorney General's Office and another from the legal counsel for the Papio-Missouri River NRD. The issue involved filling a vacancy on the Papio-Missouri River NRD where two candidates were vying for the position. The district board members used ballots to select the director as part of a voting procedure similar to what is used to elect the leadership in the state legislature. Only a total vote count was provided and not how each director specifically voted. The Upper Big Blue just appointed a member this month. We had a position that was...no one filed to run for it so we had to appoint one and so we used this procedure also. A complaint was then filed with the Nebraska Attorney General's Office and a response was sent to the district on how the procedure should have been handled with the recording of votes. The Papio-Missouri River NRD has changed the voting procedures in their rules for any future vacancies which you will note in the memo from the legal counsel. At the NRD managers' meeting following the notice for correction, the information was shared with all NRDs so that corrections could be made for each office if it had not been done so already. It is my understanding that all districts have incorporated these changes. As soon as we were notified of that at the Upper Big Blue, I think we had probably used this ballot procedure in the past also. But we changed our voting procedures to where it's a roll call vote now. We changed our rules and regulations to allow for that. So it was basically, ignorance on our part, I guess, that this happened in the first place. The changes proposed in LB503 impose additional costs upon the districts and create other problems that are probably not necessary. The bill would treat NRDs different than other political subdivisions for filling vacancies. Also, for most cases, there is only one person that applies to fill a vacancy. We have even had situations where no applicants have come forward, forcing the district to extend the deadline for application and make new announcements. The changes proposed in this bill would further complicate the matters. I would urge the committee not to make a knee-jerk reaction to the problem that has already been corrected and sometimes when changes are made that only address one situation, it creates other unforeseen situations. So I think from our standpoint, I guess we feel that we have corrected this mistake. I've been involved with municipalities on city councils, and I realize the processes there. And one other item, I guess, that concerns me with changing this, is if you have a NRD board for instance say, with

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seven members, you could eventually change the time frame when that board would change hands to where you might lose a big majority of your board members in one year. It changes that time frame where they are up for reelection. So from that standpoint, I guess I would be opposed to it also. If you have any questions, I'd be glad to answer. [LB503]

SENATOR HUDKINS: Are there questions? Senator Carlson. [LB503]

SENATOR CARLSON: Senator Hudkins. Curt, I didn't ask the question before but now I dare to because I can see not everybody understands this maybe any better than I do. In trying to follow, how would that change the term? [LB503]

CURT FRIESEN: For instance now, we, in our position that was open just recently, it was because it was no one filed for that position. So when we appointed this person, currently now he would serve for four years before he is up for reelection. If this change takes place, he would now serve for two years and then be up for reelection. So it changes that position that normally would have been a four-year one. It's now a two year and then it changes the order of replacements down the road. Our board currently has 17 members so it would probably not be a big impact on ours but there is one board I think that has seven members. [LB503]

SENATOR CARLSON: Thank you. [LB503]

SENATOR HUDKINS: Other questions? Senator Fischer. [LB503]

SENATOR FISCHER: Thank you, Mr. Friesen, for being here today. Why should NRDs be exempt from this? I was on a school board for years and when we would appoint a member, they would serve until the next election, and so sometimes it was just for two years if it was a four-year term. So my question is why should you be exempt? [LB503]

CURT FRIESEN: I don't know if I look at it from that angle, I guess. I look at we'd be the same then as municipalities and counties. I look at that position and the knowledge that is necessary to be on an NRD board these days. And to serve for two years and be up for election, I think it would be more difficult to get some people to run for that position. We are already having trouble getting people to run and if you create another, I guess, obstacle that they might look at, running for election, it's a process and it's getting to be more competitive on NRDs in some cases. We've...so from that standpoint it just makes it a little more difficult I guess. Most people in our area, I guess, are familiar with what municipalities and counties and how they operate. I didn't realize that school districts operated that way so I didn't feel we were asking to be different, I was assuming we were going to be more in line. [LB503]

SENATOR FISCHER: Thank you. [LB503]

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SENATOR HUDKINS: Other questions? Senator Kopplin. [LB503]

SENATOR KOPPLIN: Okay, your NRD had this situation in the Papio-Missouri had the situation. How many times has this happened? [LB503]

CURT FRIESEN: I've been on the NRD board probably, let's see, I'm thinking around ten years now and I think we have appointed only one person...this was the second time so two times in those ten years. [LB503]

SENATOR KOPPLIN: So it's not a great deal of time, so it...can you characterize it as a reaction to something somebody didn't like? [LB503]

CURT FRIESEN: That's what I would characterize it as. [LB503]

SENATOR KOPPLIN: Okay, thank you. [LB503]

SENATOR HUDKINS: Other questions? Thank you, Mr. Friesen, we appreciate your testimony. [LB503]

CURT FRIESEN: Thank you. [LB503]

SENATOR HUDKINS: Are there others in opposition? Is there neutral testimony? And Senator Mines has waived closing so that will close the hearing on LB503, and we will open the hearing on LB583, Senator Don Preister. [LB503 LB583]

SENATOR PREISTER: Thank you, Chair Hudkins, members of the Natural Resources Committee. It's nice to be back with you today. I am the primary introducer, Don Preister, P-r-e-i-s-t-e-r, of LB583, the electronic waste recycling bill. Electronic waste recycling is an issue I've been working on now for over six years. It's an issue that ideally is addressed at the federal level so there is uniformity across the country. However, there has not been any federal legislation enacted. Legislation has been introduced in Congress a number of times in previous years to address the issue of electronic waste recycling but no federal legislation has been passed nor does it appear that there is going to be any in the near future. In response to a lack of federal legislation, a number of states have been considering and passing legislation to address this growing problem. Concerns have been raised about a patchwork quilt effect because of this. In response, a number of national and regional organizations have met and put together a draft model Electronic Waste Recycling Act. The philosophical model that has gained the most acceptance in the past several years is referred to as the producer take-back or product stewardship approach which places the financial responsibility on manufacturers of electronic waste. The model before you today in LB583 follows this philosophy and is based on the Midwest states' model. The National

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Safety Council, and by the way, I'm the representative on the National Safety Council from the Unicameral currently, estimates that there are 300 to 500 million obsolete computers in the United States just waiting for disposal. There are 57 million televisions and computers sold annually to households and businesses in the U.S. and the FCC-mandated transition to digital television, or HDTV, will speed up the pace of television replacements as consumers will soon be dumping large numbers of old TVs that won't receive the new digital signals. Over 1,000 materials including chlorinated solvents, brominated flame-retardants, PVC, heavy metals, including lead, mercury and cadmium, plastics and gasses, are used to make electronics and their component parts including the semiconductor chips, circuit boards and disk drives. A computer monitor contains between four and eight pounds of lead alone. Big screen TVs contain even greater amounts of lead. And you might appreciate that the lead serves a valuable purpose there, it protects the viewer from some of the radiation that would otherwise come through, just as in a hospital x-ray room they use lead shields for you. So it has value but we need to make sure that it's recycled or reused properly rather than ending up in our environment. LB583 does essentially four things: it ensures a comprehensive electronics recycling system that ensures the safe management of covered electronic devices and their components; it encourages the design of e-waste that is less toxic and more recyclable; it's going to promote a statewide infrastructure for collection, recycling, and reuse of electronic waste; and it will require manufacturers of covered electronic devices to be financially responsible for the collection, transportation, and recycling of e-wastes sold to households in Nebraska. As defined in LB583, covered electronic devices include: computers, monitors, laptops, cathode ray tube-, and non-cathode ray tube-based televisions sold to consumers for use by household members. It does not cover devices purchased by businesses which generally already have access to e-waste recycling services and they also are not allowed to dump them in landfills. Under LB583, manufacturers must register with the Department of Environmental Quality and pay an annual registration fee based on the quantity of sales of covered electronic devices in Nebraska. Beginning January 2009, no covered electronic devices may be sold by retailers or manufactured unless there is a manufacturer's label permanently affixed and visible on that device. Manufacturers essentially have two options: they can pay a recycling fee of up to 50 cents per pound of covered electronic devices sold by the manufacturer in Nebraska in the previous calendar year, and then the state includes their products in the state program, or instead of paying a recycling fee, manufacturers can choose to individually or collectively with other manufacturers, submit and carry out a statewide plan approved by DEQ to collect, transport, and recycle their covered electronic devices instead of using the state program. Recycling fees will be used by DEQ to fund and carry out a program throughout the state to collect, transport, and recycle the covered electronic devices that are not covered under manufacturers' individual or joint plans. DEQ may contract with a third party to carry out its responsibilities. DEQ and manufacturers are encouraged to use the existing--we don't want to reestablish something that's already there and that we have services for--so they're encouraged to use these existing collection and consolidation

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infrastructures including household waste collection facilities, transfer stations, landfills, and to use existing recyclers to remove the waste from collection points. In addition, manufacturers are encouraged to work with nonprofit entities to refurbish and reuse covered electronic devices and we do have those here in the state. Goodwill is one good example of that. Manufacturers will be granted a credit for any covered electronic devices that are refurbished and reused. LB583 does not, not create a landfill ban on electronic waste so the landfill operators are okay with this. In conclusion, most of you do not have the benefit of listening to the debate presented in past hearings on this legislation and issue over the past six years, but I can assure you that we've come a long way in working out most of the challenges on this program and that this is the result. I know you've received communications from the various national manufacturers and I definitely understand their concerns. A federal program would be much more efficient and economical for them to follow, however, the reality is we don't have a federal program, we are not likely to have a federal program. It doesn't look like those things are happening so here I am. If a federal program is enacted, you'll notice on page 16 of the bill, it does provide that the Legislature's intent is to adopt any federal legislation that may be implemented in the future, as long as it is at least as stringent as this program. In the meantime, the various interests located throughout Nebraska, I believe, are on board with this legislation. It's time to get something passed so people can clean out their garages and basements and recycle those electronic devices in a way that protects our environment and allows an opportunity for possible reuse of these electronics. There are two things I want to point out. You've got your fiscal note and with that you'll notice the DEQ has indicated they will need General Funds for startup costs for the program. My goal when I drafted the bill was to require registration fees to be paid in 2008 from the manufacturers. But, not to begin the actual program until 2009, therefore you've got a one-year delay so the money would all come in and DEQ wouldn't need any of that startup money. It would be there prior to the program being implemented. So the fiscal note really is inaccurate in that regard. Second, in my discussions with the policy research office and DEQ, I'm aware that the administration does not want to add any more FTEs and you'll see again on the fiscal note that they have suggested that there needs to be two and one-half FTEs to run the program. Again, I heard that and I agree with the request and it was not my intention to allow DEQ to contract, that it was my intent to allow NDEQ to contract out so they don't have to hire internally, and they can contract and we have the reps and the businesses already in the state to do it. So we don't necessarily need the two full FTEs. And you'll notice on page 16, lines 14 and 15, NDEQ has that contracting authority for those duties. Finally, I've been working with the administration and DEQ in trying to craft a program that places the financial responsibility on the manufacturers. Since in the past I introduced it to put it on the consumers and this committee and others were opposed to that, we've gone with the most acceptable process and yet create a streamlined program that does not require increased staffing and a need for General Funds for startup. As I stated, my goal in drafting this bill was to avoid the need for any General Funds or additional FTEs. I would mention that yesterday I received an updated draft

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from the administration which I believe helps accomplish these goals. I'm willing to continue working with the administration. I'm glad they're interested and want to get something passed this year. I'm glad NDEQ is interested and involved and all of the other people that have been involved, so I'm hopeful that the committee will take more responsibility for this issue. We've been dealing with it for all these years. The problem is only growing exponentially, it's not going to go away, nothing is happening at the federal level, I think we need to address it here. So I would certainly hope that, and I'm only going to be around here for another year and a half to keep it going, so hopefully we can get something done. With that, I would be happy to answer any questions if I may. [LB583]

SENATOR HUDKINS: Thank you, Senator Preister. Questions? Senator Dubas. [LB583]

SENATOR DUBAS: Thank you, Senator Hudkins. Thank you, Senator Preister, for sticking with this issue. [LB583]

SENATOR PREISTER: You're welcome. [LB583]

SENATOR DUBAS: I seem to remember reading not too long ago in the Omaha World-Herald there's a business in Bellevue I think it is, that takes computers in, redoes them, and then resells them or whatever. Do you see this, I guess what I'm asking is, do you see this bill as something that will complement and encourage private business to step up and offer this service? [LB583]

SENATOR PREISTER: Yes. Yes, there are recyclers in Omaha and in other parts of the state and we're also seeing other organizations, Goodwill is a good example as I mentioned. They use people to work in these areas and where they can, they recycle the computers. Obviously people drop them off or donate them, and then they have a lot of them, so some they're able to resell. The vast majority they can't use, they're outdated, they're just not able to do it. So they already have some systems, they have the collection network across the state as do other thrift organizations and they are willing to partner. And they may have a representative here to testify. But we have been working with them so the goal is to utilize all of the infrastructure and resources that we have across the state and put them together. So again, we're not reinventing a system or creating a new one, we are using the infrastructure, the organizations that are already there. We just need to filter and find a way to get them, all of the products. [LB583]

SENATOR DUBAS: I'm sitting at home with three old computers and several monitors and didn't realize that there were places that I could take it so I appreciate knowing this and maybe bumping up an educational promotional advertising type so that people do know that there are places and are able to do this. [LB583]

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SENATOR PREISTER: And thank you for that comment, Senator Dubas, because education is an extremely important component of this. We have to get the word out and we have to provide that ongoing education to folks out there and so that they know about it and are aware and how to handle these electronic components. [LB583]

SENATOR DUBAS: Okay. Thank you. [LB583]

SENATOR PREISTER: Thank you. [LB583]

SENATOR HUDKINS: Senator Wallman. [LB583]

SENATOR WALLMAN: Thank you, Senator Hudkins. Senator Preister, I appreciate this kind of stuff too, you know, recycling...what does the state do with their old computers, do you know? [LB583]

SENATOR PREISTER: The state has a program where we sell them. In some instances the state and the city of Omaha were putting them with other things and they were things that you wanted to buy so you end up getting stuck with the computer and we don't know what happened, but a lot of them may have ended up in the wrong places and not recycled after that. The state and the city and other places have found out that people don't appreciate that, those practices, I think we've just about eliminated. So the state does some recycling to schools, or used to, but again most schools need more up-to-date information. So there really isn't a good system of reuse but wherever possible we need to do that. They sell some of them through the surplus property program and others I don't know exactly. But business and government have a restriction. They can't just dump them in a landfill; they're banned from doing that. So they have to find some acceptable method of disposal. [LB583]

SENATOR WALLMAN: Well, the reason I brought this up, there's a guy a couple of miles south of me, he took a lot of business computers when they went from the great big ones to the smaller ones, and he burned them because they had those gold contacts in there, he melted the gold. So it's terrible what's going on, you know? And that's probably all over the state so I appreciate this. [LB583]

SENATOR PREISTER: Well, and unfortunately a lot of the computers have been shipped to Third World countries and children and other people are dismantling them. They're doing what you suggest, they are burning the plastic off to get at the wire that has more value, they're exposed to lead, they're exposed to a lot of other hazardous materials where there is no regulation. And we need to take responsibility in our own country for the proper disposal and safe dismantling of these units--not shipping them to Third World countries and creating problems for them. [LB583]

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SENATOR WALLMAN: Thank you. [LB583]

SENATOR HUDKINS: Other questions? Senator Carlson. [LB583]

SENATOR CARLSON: Senator Hudkins. Senator Preister, if you go to Section 11 and this is maybe a questions that's been asked before, but I wouldn't have been here to ask it. Or maybe this is new but... [LB583]

SENATOR PREISTER: Sure. [LB583]

SENATOR CARLSON: ...prohibits fees or costs to be charged to the consumers for collection, transportation, or recycling of the devices covered under the act. So I have three in my garage, how am I not charged if we go back to...oh, the 50 cents a pound was to be on the manufacturer, right? [LB583]

SENATOR PREISTER: Correct. [LB583]

SENATOR CARLSON: But what about those that need to be taken someplace now? Out of my garage? [LB583]

SENATOR PREISTER: That's why we would have the manufacturer fee established for a year. That money would come in to establish the programs, get everything set up. We wouldn't start collecting or accepting your things for another year. And at that time, these fees would have accumulated and we would have the resource there to take them from you, the consumer, without an additional charge. The last bill I had put a charge on you, the consumer. That didn't work. I didn't get acceptance from the customer, I didn't get acceptance from the retailers, there was too much opposition. So in this case, it becomes very easy and any of these program that are going to work have to be paid at the front end. If you try and charge people at the back end when they're trying to dispose of them, you cause people to throw things in ditches and in alleys and you create more problems. So we have to make it inexpensive or free and easy in the disposal part of the process. That's why it's done this way. [LB583]

SENATOR CARLSON: Okay, thank you. [LB583]

SENATOR PREISTER: Thank you for the question. [LB583]

SENATOR HUDKINS: And Senator Louden has rejoined us so I will give him back control of the committee. [LB583]

SENATOR LOUDEN: Well, thank you, Senator Hudkins. Other questions for Senator Preister? Senator Fischer. [LB583]

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SENATOR FISCHER: Thank you, Senator Louden. Welcome, Senator Preister. A couple of questions. How many manufacturers, I guess, do this already? Where their devices have some kind of tag on it or whatever, that they are able to sell it in other...I assume other states have a program like this? I should ask that first. [LB583]

SENATOR PREISTER: Thank you, Senator Fischer. There are other states that have enacted their own recycling reuse kinds of programs and they've set them up in different ways. We've tried to create the model and take advantage of what has worked and what hasn't in this bill. Some manufacturers are doing some of these things; others are not. The manufacturers have their own association. They would prefer a national program but we're not getting it...a national program. [LB583]

SENATOR FISCHER: I guess my question is, how am I going to be able to go to a Best Buy or an Office Depot or whatever, and get the kind of computer I want if that manufacturer wouldn't be complying with whatever we pass here in our state? On page 10 it says then they can't offer that product for sale in the state of Nebraska. Do you see that as being a problem? [LB583]

SENATOR PREISTER: Not really because there's enough... [LB583]

SENATOR FISCHER: We're talking global manufacturers here trying to comply with a Nebraska law. I mean, I agree with you that the national level should be handling this so how are we going to handle that though? [LB583]

SENATOR PREISTER: Because this same kind of labeling is required in the other states. We're not so inflexible that we're dictating exactly how and the size and those details. So we're doing essentially what some of the other states are doing and what the manufacturers are ultimately going to have to do anyway, so we're trying to make it as easy for the manufacturers. And we've been in communication with them for some time as well. So I understand the concern and I want those products to continue to be sold in Nebraska and to be available to the consumer, and I think as we did this, looking at how the other states have done it, we're trying to make it as easy as we can. But there is still that responsibility on the manufacturer. [LB583]

SENATOR FISCHER: And I've, I guess I need clarification on the landfill part. [LB583]

SENATOR PREISTER: There is no landfill ban. [LB583]

SENATOR FISCHER: So how do we stop consumers from just taking their old computer and putting it in the trash and goes to the landfill? [LB583]

SENATOR PREISTER: Well, we tried a landfill ban too. I've tried everything that you could probably think of (laughter). And we had opposition to that and the arguments

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were, they're just going to--if you ban them in the landfill, they're going to throw them in the ditches, they are going to put them in the alleys, they are going to put them other places. So it gets back to education, I believe, Senator. If we make it free, if we make it convenient, if they can take them to their local Goodwill, if they can take them down to all of these sources that we already have--even in small towns we have some kind of thrift stores or some place where they take things. If we utilize the existing infrastructure when you come in from the ranch and you're going to town to get your groceries, if it's convenient to drop off your old computer and it doesn't cost you anything, why would you throw it in the ditch? So I think we are trying to make it easy and convenient so we don't have to worry about what happens to them if there is no ban. [LB583]

SENATOR FISCHER: And what does Goodwill do with these again if you could tell me? [LB583]

SENATOR PREISTER: Well, there are some people that will... [LB583]

SENATOR FISCHER: Or are there other places where you would drop them off? [LB583]

SENATOR PREISTER: ...likely be here to testify and Jim Otto wants to testify next with the retailers since he has to go some place else. But I think there are some people here who have been working on this process who can answer many of those other questions very directly. [LB583]

SENATOR FISCHER: Oh. Okay. Thank you. [LB583]

SENATOR PREISTER: You're welcome. Thank you for the questions. [LB583]

SENATOR LOUDEN: Senator Hudkins. [LB583]

SENATOR HUDKINS: Thank you. Senator Preister, so the way I understand it then, the manufacturers would be the ones responsible for either paying the recycling fee or cooperate with other groups to carry out this on a statewide basis. My question, several questions actually, is let's take manufacturer A and they have sold 100,000 computers in this state. What's that going to cost them? You know, computers are heavy. [LB583]

SENATOR PREISTER: Sure. And it is by the pound. It isn't going to cost them anything, Senator, because you and I both know they're going to add that to the cost of the product. We, the consumer, always pay all of those costs ultimately. So there would be that additional fee but as you also know, the cost of manufacturing these things as they do it in greater numbers, has driven the actual costs down. So probably we wouldn't see an increase in the price, we just wouldn't see them go down as much. [LB583]

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SENATOR HUDKINS: If a computer is recycled, what is the value of the recycled retrievable parts and... [LB583]

SENATOR PREISTER: There may be some testifiers who are doing that who could give you some of that information? There are extremely small amounts of some of these precious metals that you don't get a lot of that per computer. So it's not something that is that lucrative, but I can't give you specific numbers. [LB583]

SENATOR HUDKINS: We have a deposit, you go to buy a new battery for your car and you have to pay a deposit. Then when you go back and get another battery, take your old dead one with you, you get that deposit back. Would that be a method that we could use here? You pay a, I don't know, \$5, \$10 deposit, then when you take it back where you bought it, you get the money back? [LB583]

SENATOR PREISTER: I've never seen that so I'm not familiar with it but that's similar to what I tried to do in previous bills where the customer would pay an additional fee at the beginning and then it would cost them nothing when they took it back at the end of the life cycle, and I couldn't get support for that, Senator. [LB583]

SENATOR HUDKINS: Well, don't you think though that the consumer should have some of the responsibility? [LB583]

SENATOR PREISTER: Well, the consumer will pay for it all ultimately anyway... [LB583]

SENATOR HUDKINS: In the purchase price. [LB583]

SENATOR PREISTER: ...so they really have all the responsibility. But the manufacturer is the one who is essentially in the position to do it in a greater scale to make it all work rather than individual consumers. If you can find anyone who can find any way to do it other than this, I'm open to it. I want the committee to get more involved in it and find other options. I've tried all of those. [LB583]

SENATOR HUDKINS: I think in a bill that you had last year, we had a recycler here from Waverly, I think, I'm not sure. But I'm curious as to, if he is getting the lead and whatever else out of that computer, does, at the current method of doing things, does he then really need to ask you for a contribution to take your old computer? [LB583]

SENATOR PREISTER: It's very labor intensive and remember, we're talking small amounts that are not easy to extract, so there isn't enough money in the--well, they can speak for that better than I because I don't have the exact numbers with me. But there isn't the amount of return that offsets the labor and the cost for the equipment for it to pay for itself totally at this time, as I understand it. [LB583]

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SENATOR HUDKINS: Okay, thank you. [LB583]

SENATOR LOUDEN: Other questions for Senator Preister? Seeing none, thank you, Senator. [LB583]

SENATOR PREISTER: You're welcome, and I need to get back to Revenue so I will waive my closing but if there is another question before I go... [LB583]

SENATOR HUDKINS: Since you said you won't be here later, I'll ask you a quick question. Is there mercury in computer monitors? [LB583]

SENATOR PREISTER: Yes. [LB583]

SENATOR HUDKINS: And we know that that's a very toxic substance. [LB583]

SENATOR PREISTER: We do and we know it probably shouldn't be in the inoculations that we give our children, Senator. We're in full agreement. [LB583]

SENATOR HUDKINS: That's right, and thank you very much. Thank you. [LB583]

SENATOR PREISTER: You're welcome. [LB583]

SENATOR LOUDEN: Thank you, Senator. [LB583]

JIM OTTO: Senator Louden, members of the committee, my name is Jim Otto, O-t-t-o. I'm president of, and a registered lobbyist for the Nebraska Retail Federation and it gives me great pleasure to be here to testify in favor of LB583. And the reason I say that is because everything else Senator Louden has tried to do over the last six years I've had to testify against, and I never appreciated that, it was never any fun. But I just really, first of all... [LB583]

SENATOR LOUDEN: Do you want to correct that? [LB583]

JIM OTTO: Excuse me. Senator Preister. I'm sorry. But I wanted to give you credit, Senator Louden (laughter), have I testified against everything you've done? [LB583]

SENATOR LOUDEN: I don't...I don't need credit like that (laughter). [LB583]

JIM OTTO: I apologize, Senator. I meant Senator Preister, everything Senator Preister has done in this area for the last six years I've had to testify against. Glad you corrected me. Anyway, he is correct, it has been a long process. He has stuck with the issue and I just want to complement him for how many people he pulled together, his staff pulled

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together, and how much they worked on this. And it would be better if we could come up with a national solution but reality is it's probably going to be led by the states and the more states we get to agree on a workable solution, the more chance we have of that national solution matching the state solution. One of the things, when you have it on a manufacturer-based, it encourages manufacturers to design them so that they are easier to recycle. If there is no responsibility of a manufacturer there really is no incentive whatsoever to quote, design green. Or figure out how it would be easier to recycle or not make it as big or change it, so the incentive to be on the manufacturer is much more appropriate. You may have some--the other thing I need to point out is many large retailers are also manufacturers because they have private labels. For example, Best Buy has a private label computer, other large retailers do, I think Circuit City probably does. They contract with, it may be Sony, it may be Dell, it may be someone else, to actually build their private label computer. But under this bill, since they are private label distributors, they would be considered manufacturers. So we have retailers that are also manufacturers that are supporting this bill because they think it is the best solution and the best way to base it on a manufacturer-based solution, joining the state's program on a poundage basis. One of the things that also might come up is many manufacturers may say, you know what? We've shipped 6,000 computers to an Iowa distribution center and who knows where those go? We don't know if those are sold in Nebraska, Illinois, in Iowa and there has been an agreement with major retailers that have those large distribution centers to report back to the manufacturer exactly where their machines went. So it's not like it's impossible to figure this out. One of the other things I want to point out is the fact that there may be competition concerns or someone may raise competition concerns, in other words, a manufacturer will say that this unfair competition. It's going to really cause us a problem. The only thing I can say is everybody's going to have to pay the same fee. So based on your size, you're going to pay the same fee, everybody's going to get treated, everybody is going to be addressed the same. I guess everybody's going to be hurt the same or however you want to do it, but everybody will be paying the same fees so it shouldn't affect competition because you should have the same fee that your competitor is having to pay. One of the other things I just wanted to point out, sometimes people bring up, and you did, Senator Hudkins, batteries, tires. You know you have to pay to get rid of your tires and that's done on the consumer at the time you get rid of your tires. But the reason that works if you think about it, it's tough to get to the shop to get new tires if you don't have your old tires on the car (laughter). It's just a matter of life, you're probably going to need your old tires to get there, so they're already there and it works. But in many cases, the old computer goes to the kids' room, they go down and buy the new computer...it's just such a, it's not a direct connection like tires. And I think that's one of the reasons it doesn't work. And Senator Preister is correct that it will eventually be on the consumer, but every fee we've had has been on the consumer. The question is just how did it work? As I said, we are pleased to support it. [LB583]

SENATOR LOUDEN: Questions for Jim? Senator Hudkins. [LB583]

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SENATOR HUDKINS: Jim, it is better to have a 50 cent charge per pound as opposed to just a flat amount per unit? [LB583]

JIM OTTO: Well, I think that the per pound figure works better. For example, if you have a flat amount per unit, a big screen TV may weigh, I mean it could be a huge variance in how much it weighed, depending on how it was designed and the amount per pound, maybe other people can speak to that better, but in my opinion, the amount per pound would be a much more direct relationship to the manufacturer to...you know what? If it's going to cost them the same fee to have a 100 pound unit or a 50 pound unit, why wouldn't they have a 100 pound unit? So I think the amount per pound is a more direct and working fee. [LB583]

SENATOR HUDKINS: Yeah, I was thinking more...each model is going to weigh something different but in your specs you have, okay that model ABC weighs this much and model DEF weighs something else. So yeah, that would work. Thank you. [LB583]

JIM OTTO: Okay. [LB583]

SENATOR LOUDEN: Other questions? Senator Carlson. [LB583]

SENATOR CARLSON: Thank you, Senator Louden. Jim, you may have referred to this and if so, I missed it, but you indicated this was the first year you are able to vote and support this way, why didn't you last year? [LB583]

JIM OTTO: Well, in most...previous years, it's been an advance recovery fee which was charged at the time--in other words if you bought...at least one of the suggestions was...it was an advance recovery fee when you bought the computer at the time of the sale, it was five bucks, ten bucks, fifteen bucks or the TV set was--some fee, so in other words when you went in to buy your \$800 computer, the retailer would then collect an advance recovery fee of \$25, \$30 dollars just like they collect sales tax, keep track of that, send it in. It's just another disincentive to sales, something the retailers didn't want to do. We were against the advance recovery fee. It doesn't incentivize the manufacturer so that was basically the reason. [LB583]

SENATOR CARLSON: Okay. [LB583]

SENATOR LOUDEN: Other questions for Jim? I have one. Well, I've been around here for a while and watched this go down. The reason you guys, retailers are for this bill is because it puts the whizzer on the manufacturer instead of the retailer. Would I be correct to say that? [LB583]

JIM OTTO: I think that's pretty accurate, so... [LB583]

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SENATOR LOUDEN: Okay, thank you (laughter). How many states do this? [LB583]

JIM OTTO: You know, I apologize, I should know that. I know that...I'm pretty sure Minnesota does. When I talked--I can find that out for you Senator, I don't know for sure. [LB583]

SENATOR LOUDEN: But what I'm wondering is, is everybody going to run over to Iowa to buy their computer for a few bucks cheaper because the whizzer hasn't been put on over there yet? [LB583]

JIM OTTO: Well, I guess... [LB583]

SENATOR LOUDEN: If we don't, if everybody doesn't do it, we're going to... [LB583]

JIM OTTO: Well, the question will be, and the manufacturer would have to decide this. If it costs, let's say, \$50 per unit in Nebraska, the manufacturer could decide to add \$50 to every unit they sell in Nebraska. Or they could decide to add ten cents to every unit they sell nationwide. It doesn't really matter, as long as they pay the fee. My thought is that I don't think they'll want that competition to be that much different across the river and that they'll...I would doubt that it will add fifty bucks to a Nebraska unit. I would...I don't know...I'm not the manufacturer. But that's just a...how do they do it? [LB583]

SENATOR LOUDEN: Well, I was wondering, you know, we have...to the west we have Colorado over there selling their stuff and I don't know what Colorado does, I have no idea. All I know is they stick it to you when you're hauling stuff to the dump (laugh) and if you don't have it covered up with a tarp, they stick it on you some more, I do know that. But anyway, that's what I was kind of wondering, Jim, how this is going to work if we happen to be the only state to do this. Are we going to be penalized for living in Nebraska? [LB583]

JIM OTTO: Like I say, I know there are other states that do it and I apologize, I should have had that information, but I know someone behind me will. [LB583]

SENATOR LOUDEN: Okay. Thank you. [LB583]

JIM OTTO: Thank you. [LB583]

SENATOR LOUDEN: Other questions for Jim? Guess not--Jim, thank you. [LB583]

JIM OTTO: Thank you. [LB583]

KENNETH WINSTON: (Exhibit 4) Good afternoon, Senator Louden, and members of

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the Natural Resources Committee. For the record, my name is Kenneth 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. I'll briefly run through the main comments that I want to make. The Sierra Club has supported recycling in lots of different forms over the years and we have a long-standing position in support of recycling. We'd like to see more recycling done in the state of Nebraska on more levels and so anything we can do in this area, we support. And obviously there's a number of things that just make common sense. If you're recycling things like paper, plastic, glass, aluminum, and metals, then it makes sense to also add electronics to that list. And the reason for that is because of the fact that there's...in addition to the other substances, there's toxic substances in a lot of the electronic devices including fire retardants in the plastic and heavy metals such as lead and mercury and other toxic substances that are found in a lot of these devices. And as such, they probably shouldn't be put in the landfills and even worse is if they are discarded along the roadside or otherwise disposed of in a way that doesn't deal with those kinds of substances. One of the things that Senator Preister touched on it, in terms of making a recycling program work, studies of these kinds of things indicate that if a recycling program costs money for the consumer, people are less likely to do it. Also, if it's difficult, the more challenges that people have, if they have to take things and haul them someplace, they are less likely to do it. If you combine those things and say, here's a fee and you have to take it to a specific location, then that increases the disincentive. So if you want a recycling program to work, there's a couple of things that have to happen. One is that it has to be simple and I guess, well, the second thing is people have to know about it, but the third is that it shouldn't cost them money. And I think that's one of the things that has happened in the past. One of the reasons prior legislation hasn't gone anywhere is because of the fact that there were fees that were either to be imposed on the consumer at the time they bought it, or imposed on the consumer at the time they disposed of it. And so as a result, the legislation never went anywhere. I guess one of the things that I wanted to indicate is to follow up on what Jim Otto said, is I think there is wider-spread support of this bill than ever before and it is kind of interesting for me to be supporting the same bill that Jim Otto is supporting. I think some of you were on the committee last year when we had the situation where I came in and supported some legislation at the same time that the Nebraska Cattlemen were supporting legislation. Of course, since then, we've discovered we have several common interests in the legislative arena and have worked on a number of issues together. But in any event, we believe that this is a program, this is the way to go, this is a program that we need to get started on it. These substances, or these devices, I'm trying to think of how many computers I've got sitting around my house, I know I've got at least a couple that I don't use anymore, and they just continue to pile up if we don't deal with them. And this is something that's going to get worse if we don't address it. One question that was asked that I wanted to address, at least from my perspective, I think you're more likely to have people--the border bleeding, have people go across the state lines if you impose a fee at the retail level because then it's more likely to be obvious to the consumer. I think if it's a manufacturer level, the manufacturer is more

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likely to spread it out over all of their manufacturing as opposed to targeting a particular state. I would be glad to answer questions if I am able. [LB583]

SENATOR LOUDEN: Any questions for Ken? Senator Carlson. [LB583]

SENATOR CARLSON: Senator Louden. Ken, in talking about you think the manufacturer is more apt to spread out the cost. I can see that to the states if Nebraska's by itself, I can see that for the states surrounding Nebraska. But a manufacturer in Pennsylvania, what do they care? [LB583]

KENNETH WINSTON: Well, typically it's a matter of pricing. If they're going to price something, I guess I would just be surprised, I mean, I get catalogs from Dell for example. I'd be surprised if they sent me a catalog and they say, they print a separate catalog for Nebraska that says, in Nebraska, the fee for the cost of a new laptop instead of being \$599 is \$649. I'm guessing that based upon the way they operate, they would rather just incorporate that cost because there's promotional and marketing aspects that they would have to factor into all of that, and rather than doing that I'm, I would just be surprised. I mean, obviously, I haven't spoken with those folks but I...from the marketing strategies that I've dealt with over the years, I'm guessing they do these kinds of marketing strategies nationwide or at least region-wide and it wouldn't make sense for them. I would think that it would be more costly for them to try to market based upon a specific state. [LB583]

SENATOR CARLSON: Thank you. [LB583]

KENNETH WINSTON: Thank you. [LB583]

SENATOR LOUDEN: Any other questions for Ken? I got one, Ken. As you were answering Senator Carlson's question about you thought they would just put it across, well then it would it be safe to say that where the fiscal note shows like out there in the future, could be anywhere from \$2.8 million to \$4.4 million, that we've just put a tax of that on some type of commodity that sold then? Because the consumers are going to pay it. Would we be further ahead to just take it out the General Fund and tell everybody to bring...set up some place you can dump your computers and the state will pay for getting rid of them? I mean, it's a tax either way. Would that be correct to say? [LB583]

KENNETH WINSTON: Well, it would be a tax either way. I would be more inclined to believe that the cost would be spread out over a national or regional basis by the manufacturers. And I believe the trend is for more recycling to be done. I'm sorry, I don't have the list of all the states that have electronic recycling fees at the present time. Some of them are fees at the consumer level. I know at least two states do fees at the consumer level, but and I don't think it's driven the manufacturers out of those states. I guess just to respond to you, if you can find support for General Funds for

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environmental causes, we're always glad to support that. [LB583]

SENATOR LOUDEN: Okay. Thank you. [LB583]

KENNETH WINSTON: Thank you. [LB583]

SENATOR LOUDEN: Next proponent? [LB583]

STEVE ANDREWS: (Exhibit 5) Thank you, Senator Louden. Hello, Senators, my name is Steve Andrews, that's A-n-d-r-e-w-s. What I am handing out is past testimony. When Senator Preister mentioned that he's been working on this for six years, I've been working on it with him for six years. And the testimony I've given in the past really is pertinent to then as it is now. The important component of this recycling, as I've made a point in the past, is that this material is a resource and as best possible, we should be trying to recover this resource and use it and put it back into the manufacturing stream. We are on the cusp of seeing some major changes I think, in this country, when it comes to dealing with environmental issues. You guys have already dealt with renewable energy, we're seeing ethanol boom and bringing economic development to rural communities. As the gentleman from the retailers association mentioned, this bill and bills like this, and this is model legislation so while not many other states have this, I think this legislation is probably where most of the states are going to go, so this will be pretty comprehensive. But this type of legislation in thrusting the responsibility back onto the manufacturer, will encourage them to change their manufacturing processes. So in this case, maybe not using as many hazardous chemicals in the manufacturing process. Maybe they're able to, in the next few years, incorporate a recycled feed stock so the material, the casings, the plastic casings can be ground up, repalletized and used to manufacture new casings and stuff. And that's the direction I think that this product, stewardship, this type of legislation will go. Again, this is model legislation so we'll see this. Six years ago when I started working on this issue, six, seven years ago, I could have counted on both my hands the number of electronic recyclers there were out there. Now it's just huge. I mean, you know, you pick up any recycling journal and you can, two or three pages of different recyclers. There's a major scrap company that just bought United Technologies which is an Illinois-based electronic recycler, and one of the reasons they bought them was because of the electronic recycling part of that business. So this is also economic development. This bill also, I think, covers the infrastructure and the infrastructure collection better than any of the other bills have and I'm impressed with the work that Senator Preister and his aides have done on this. We do have a good collection infrastructure already in this state via landfills, transfer stations, recycling drop-off programs, and other recycling programs, so the infrastructure exists. Again, we should be recovering this material because it's not a waste, it's a resource and we should be reusing this material instead of going the traditional method which is to just toss and bury it. And Senator Hudkins, you know, asked the question of why should we pay for recycling? Well, we should be paying for

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the recycling for the same reasons we pay for waste disposal. And I get calls and when I say, are you willing to pay for recycling, people will no, I'm not going to pay for that. Well, on one hand they'll pay to throw it in the landfill never to use it again in most cases. On the other hand they won't pay to take that material and reuse it and bring it back into manufacturing process. And I think we need to change that mind-set. With that said, I'll answer any questions that you might have. [LB583]

SENATOR LOUDEN: Any questions for Steve? You're executive director of the Nebraska State Recycling Association? [LB583]

STEVE ANDREWS: Yes, Sir. [LB583]

SENATOR LOUDEN: Okay. Where we do our stuff, Alliance has a landfill and twice a year or so we take the truck and take a whole load of their recycling material they call it--barbed wire, steel, tin, old television sets--the whole works goes in there and they load that all up with a magnetic crane or something, you know, and crush it and all that. What do they do with those TVs or laptops that go through that? When they melt that down, does some of those different metals float off so that they get it then, or how do they do that? I know where the iron goes, it goes back into iron, but where does, how does that work? Are you familiar with that? [LB583]

STEVE ANDREWS: I'm not real familiar with that exact process. My guess is that, you know, through some type of eddy current or magnetic process they would pull that material out. In most cases, with traditional recycling, they will extract as much of, you know, say, the glass from the paper, aluminum from paper, as they can through different systems and stuff. I would be surprised, especially in today's economy and market for scrap, that somebody would be putting a TV or laptop in with that. Because usually if you have contaminants or comixed material, you're going to be docked. So you're not going to get as much value out of it and with the prices that are paid for scrap these days... [LB583]

SENATOR LOUDEN: Well, they charge us \$18 a ton to haul it in there and that's how we bring it in, by the ton. But all of those materials are in there and I know that goes to a smelter someplace and I was wondering if they had any way of retrieving some of the other more valuable metals out of there, if it just all gets boiled up into the iron and goes off as slag? [LB583]

STEVE ANDREWS: No, I would say, again, I'm not real familiar with how the scrap processes, but my guess is they're going to try to extract as much value out of that as they can. So if they've got two different types of material and one is more valuable than the other, they're definitely going to pull that off and try to get as much value out of it as they can. [LB583]

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SENATOR LOUDEN: Okay. Thank you. Any other questions for Steve? Seeing none, thank you. [LB583]

STEVE ANDREWS: Thank you. [LB583]

CARRIE HAKENKAMP: My name is Carrie Hakenkamp, C-a-r-r-i-e H-a-k-e-n-k-a-m-p and I'm the executive director of WasteCap Nebraska. Senator Louden, and members of the Natural Resources Committee, thank you for having me today. I'm here to speak on behalf of businesses and electronics asset recycling in Nebraska. Senator Preister has really done a great job of recognizing the need for this end-of-life management and I really appreciate his willingness to work with all of the stakeholders in Nebraska. As others have said before me, this is really the first time that I have been able to come to this committee and proudly support the legislation that's being recommended today. He's allowed many stakeholders to work with him on many occasions and has come to us for our recommendations and has really worked a lot of that into the bill that you see today. Other bills in the past have had a great deal of opposition and this process has allowed our voices to be heard and be part of the creation of what we feel is a really great bill. Since 2000, WasteCap has been educating businesses on the proper end-of-life management of electronic equipment through different workshops and collection events and in that time, we've presented over 20 electronic and universal waste management training presentations to businesses and we've also cohosted 15 electronics recycling collections throughout the state. In those collections, we have collected well over 200,000 pounds of equipment for recycling. It's quite the amazing sight to see 30,000 pounds of computer equipment and televisions all in one spot at the same time. We currently have funding from the Nebraska Environmental Trust to host an additional six workshops and three computer collections which we have planned already: one in April in Omaha, one in June in Lincoln, and one in May in Norfolk. Through the collections and workshops, we're working with our recyclers in utilizing that experience to help develop electronic asset recycling infrastructure in Nebraska. Although we have utilized waste, or grant funding in the past to sponsor collection events, it's our contention that small grant-funded projects need to be replaced with larger overarching infrastructure development programs. And currently that is the only way in the state that households are managing their electronics is through patchwork computer collections throughout the entire state that may or may not have been funded by grant funds, because somebody in that community took the initiative to apply for a grant. From our experience, we've learned that the collection events should rather be seen as a stepping-stone and a tool of the larger management process that would include education and infrastructure development. And Senator Dubas, I think you have asked about the infrastructure or the education and this particular bill does promote education through the process that would be built including an 800 phone number and an educational plan that would implement that educational process. We have also determined that these collections should be used to help the businesses and households to clear out old equipment. Many of you have said, well, I have three of

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them. And until an infrastructure is developed, we want to get those three out but eventually we really want to see that infrastructure developed. We also use these collections to provide information related to recycling. As has been mentioned, there are several recycling organizations within the state, recycling companies, both for profit and nonprofit reuse organizations, that will take equipment and we try to provide that to any person who comes through our collections. Another great asset to this bill is the use of current recycling and collection infrastructure. That has been mentioned as well. It's going to enhance our current infrastructure development process and working with recyclers and businesses throughout the state. And it also reduces the ambiguity of the limited controls that are on electronic recyclers now and sets clearer guidelines than what are currently in place throughout the country as far as what that recycler can do with the equipment, let's them know what those standards are. Although this legislation focuses solely on household electronics, and I'm a business-based organization providing services to businesses, the development of the recycling infrastructure is going to greatly enhance our market development efforts and will create local collection locations that will make it more available for businesses throughout the state. Currently businesses in western parts of the state do not have access to affordable recycling services. Although there's quite a few folks that will come and pick up equipment, you've got to have a certain limited amount to do that. Otherwise you have travel many, many miles to get to a recycler. And this would utilize some of those locations and those locations could then accept a fee from the businesses that eventually that fee would be lowered and lowered as more volume helps to create a cheaper process for us. Additionally, one thing that we did like about this bill is that the ability of DEQ to contract the oversight and development of the program will really help to streamline a lot of the activities that are already going on in the state. And it allows for a great program to develop without the need for additional state staff. And I think there were a couple of other questions that I just wanted to note. Senator Hudkins had a question about per pound fees and right now, that's the industry standard is that when a recycler takes in your computer equipment, they do charge a per pound fee for most of the recyclables. Occasionally they will charge a per monitor or per CRT fee so that's pretty standard across the industry. And the other thing for manufacturers and retailers, they do prefer the producer pays versus the advance recycling fee. I know that in some of the states such as California where they do have an advance recycling fee, the retailers and manufacturers have spent millions and millions of dollars trying to comply with that by changing their SKUs so that that fee can be tracked through the process of the retailers. And so that's already been very expensive for them. But in addition to that, the European Union has instituted a lot of standards that HP and Dell and Apple and the major, major players have already had to institute to meet the standards in Europe. They have a reduction of hazardous substances standard that requires them to reduce the amount of toxins that are in their materials and increase the recyclability of those materials. So it does...they're already doing what they can to comply with those standards and so this bill would fall in line with those requirements. I'd be happy to take any questions if you have any. [LB583]

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SENATOR LOUDEN: Okay. Any questions for Carrie? Seeing none, thank you. [LB583]

CARRIE HAKENKAMP: Thank you. [LB583]

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 recycling company based in Omaha called CP Recovery. I've been here several times speaking on behalf of Senator Preister and I want to say that by far, this is the most comprehensive bill that he's every put forward in terms of computer recycling. We strongly urge you to pass it through. One of the main reasons that we feel that it is the most comprehensive is, it's main purpose, I think, is accessibility. In the past, for a smaller town, say out west, to recycle their old electronics, they had to apply for grant funding to have a computer collection event. This has worked in the past. This allowed a onetime or one-day collection event for all the local citizens to get rid of their electronics for free. However, with this bill being put into mind, this allows instead of one time a year for those citizens to have their electronics disposed of at any time. You have three monitors in your basement that you want to get rid of. Maybe you weren't available to do that at that time but now you are. And this bill lays on that infrastructure and that network to make it more accessible for you or anyone else to recycle their old electronics. With that in mind, we oppose any advance recovery fee that they had spoken of before. It's too risky, it's too much of a hassle to try and determine if somebody has paid up front or if they have not. This lays it on the manufacturers to put that per pound cost out there, it allows more recycling to be done. There would be a higher percentage of recycling if it is as proposed in the bill. That is our current stance. A couple of questions I heard earlier, Senator Wallman, you'd ask if the state of Nebraska has a current program; they do. I have been a contractor for the state of Nebraska and typically what they will do is they will try to resell any usable equipment through state surplus and then after that then they have a recycling fund set up to properly dispose of any equipment that cannot be used. If anyone has any questions, I'd be more than happy to answer them. [LB583]

SENATOR LOUDEN: Any questions for Jeremy? Senator Wallman. [LB583]

SENATOR WALLMAN: Thank you, Senator Louden. Jeremy, if I want to get rid of my used stuff, can I take it to your place right now? [LB583]

JEREMY McNEAL: Sure, sure. We do have a fee. It is 35 cents per pound. [LB583]

SENATOR WALLMAN: Thirty five cents? [LB583]

JEREMY McNEAL: That's correct. We have to have a fee to recycle it. What we do is we dismantle everything, we call it end-of-life, we're not reusing that hard drive as it is. It's going to be shredded. The same with all the other materials, it's going to back into

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the raw materials, steel, plastic, wire... [LB583]

SENATOR WALLMAN: Thank you. [LB583]

JEREMY McNEAL: Um-hum. [LB583]

SENATOR LOUDEN: Other questions for Jeremy? If this bill is in effect you would still charge a fee? [LB583]

JEREMY McNEAL: No. For a walk-in customer such as yourself? No. [LB583]

SENATOR LOUDEN: Where would you get your money then? [LB583]

JEREMY McNeal: From the program, the 50 cents per pound that the manufacturers would be paying into the fund. [LB583]

SENATOR LOUDEN: Okay, that would have to come out of the state then because the manufacturer would pay it to the state and you would send a claim to the state or what? [LB583]

JEREMY McNeal: Correct. [LB583]

SENATOR LOUDEN: Okay. Thank you. Any other questions for Jeremy? If not, thank you for testifying. [LB583]

JEREMY McNEAL: Thank you. [LB583]

GARY LUND: My name is Gary Lund, L-u-n-d, the city of Norfolk. Mr. Chairman and committee, thank you for the opportunity. I think we have a bit of a moving target here in the past. We're not going to be unique in Nebraska in this bill. We've been trying to follow what's going on in the rest of the country. There are several states east of us that are working on this and the bill that you see before you I think is going to be very similar to what's going on in the rest of the country. It's picking up momentum and I think that after six years, it's probably, if that's the length of time, I think I've been involved with it almost that long. I think it's time to move ahead with it. I like this for many of the reasons that Senator Preister mentioned. It's a product stewardship model that makes the manufacturers and the purchasers responsible for end-of-life costs of disposal. I think that removes incentive for improper disposal. And I think that ties in too with the landfill ban as, Senator Fischer asked a question earlier. The computers are being hoarded. I think you've heard that there are several in the basements of people in the room here. They don't want to throw this away. They don't want to dispose of it in the road ditch. They understand there's some value there. They would rather not landfill it, they would like to recycle if possible. And if you remove the negative incentives from adding a cost

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at the end, I'm sure you will find that that stuff is being recycled. If you have to rely on a landfill ban to make the system work, I think you're going to continue to have a fight and I think the equation we've put together here, I think, is going to be very effective in getting those computers into a recycling system. The most important item in this bill, I won't rehash all the positives I see in it, but I think for the city of Norfolk, the most important issue is the fact that this does not fall to steps of municipalities. The manufacturers and the folks that buy these products are funding the disposal when they purchase that. We do not tax for all of these services in the city of Norfolk. The solid waste division functions as an enterprise. We would have to raise our gate fee to cover these so-called free services and that's an incentive for tonnage to leak away from us. Revenue leaks away, making it more difficult for us to do just what we're talking about here. So I think the front funding, whether we have the perfect equation for the manufacturers I cannot say, but as long as it is not dropped at the foot of the municipalities, I'm very happy with it and I would like to see it move ahead and in the form, very close to the form it's in right now. So I thank you and I'll answer any questions. [LB583]

SENATOR LOUDEN: Questions for Gary? You operate the landfill at Norfolk? [LB583]

GARY LUND: Yes, Sir. [LB583]

SENATOR LOUDEN: Okay. Do you take televisions and that sort of stuff? Do you take like Alliance up there, do you take in iron, scrap iron as recyclable material and that's in a separate pile? [LB583]

GARY LUND: We do separate occasionally. We have the Alter Corporation right there in town also and it's easy for me to tell somebody, well, if you've got it on a truck, just take it over there. It's very easy for us just to route that in the community the size of Norfolk. I route refrigerators to the Maytag man, and route batteries to the Bomgaars store, and I run out to...but I will take all of that and haul it myself. [LB583]

SENATOR LOUDEN: I see. And then do you get a big pile of iron and then you have them come in and bale it or what do you do with it? [LB583]

GARY LUND: We haul directly up to Norfolk Iron and Metal or Alter Corporation. [LB583]

SENATOR LOUDEN: Okay. You... [LB583]

GARY LUND: We do get a little payment for that. [LB583]

SENATOR LOUDEN: What do you haul up there? How about old television sets that are thrown in there and... [LB583]

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GARY LUND: We don't. Television sets now are in the landfill. [LB583]

SENATOR LOUDEN: They go in the landfill? [LB583]

GRAY LUND: Yes. [LB583]

SENATOR LOUDEN: How come you don't send them up to the smelter? [LB583]

GARY LUND: People don't want to pay for them. In the last year I opened a computer recycling operation, a trailer, and I've gone from \$10 up to \$15 to cover the cost of recycling as I've gotten a small quantity of computers in. I've not done a lot of recycling but I am getting a few computers. But nowhere near the amount of computers that are stored in the community. It's...there's not too many people that want to pay \$15 to have their computer recycled. And that's the incentive that this bill avoids is that end fee. Televisions from homes are still exempt and they're landfilled. [LB583]

SENATOR LOUDEN: Now what about...or are your computers or whatever, if they come from...you would still have...if this bill was passed, you would still have to have your fee, right? [LB583]

GARY LUND: I would not. That fee goes to the gentleman over here who is going to take that and strip them apart. I would have to have some grant funds just to build up, just to put in some, a small warehouse and some handling space. But I have staff at the transfer station that can direct the waste to that storage area. It would be a small increase in our cost to supply that labor just to move it and put it on a pallet until this gentleman can come up and get it. But I don't, with this bill I don't have to pay him 35 or 50 cents, I'm not sure what it was. [LB583]

SENATOR LOUDEN: How would then, a person that recycled it that has to have a fee, how would they get paid? I think I asked the question before and would they then get something from the state? [LB583]

GARY LUND: They would have to have a voucher of some sort and I'm not sure who's, how that's going to be set up, but they would have to have a voucher as to the tonnage that they're handling and what their payment from this new account would be. [LB583]

SENATOR LOUDEN: Well, that's what I'm getting at is then how do you decided, I mean, this would be like a bounty on prairie dog ears. How do you count them or how do you know that that's how many he has when he puts in his voucher? How would you make that bookkeeping or reconcile all of that? If anybody... [LB583]

GARY LUND: That might be a question for DEQ. I've not asked that question. I am not

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sure how that paperwork is going to be handled. [LB583]

SENATOR LOUDEN: Okay, thank you (laughter). [LB583]

GARY LUND: You're welcome. [LB583]

SENATOR LOUDEN: Other questions for Gary? If not, thank you for testifying, Gary. [LB583]

GARY LUND: Thank you. [LB583]

GARY KRUMLAND: Senator Louden, members of the committee, my name is Gary Krumland, it's spelled G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities appearing in support of LB583. Cities operate and are involved with the operation of landfills, transfer stations, and recycling centers, so this bill is important to cities and villages across the state. We do support electronics recycling and the development of a system to make it easy for consumers to recycle their electronic products. It will help get them out of the closets and everything else like you've heard. We have a concern that if it isn't an easy system, they may end up in ditches and places where it will be a burden on the cities and counties to deal with them that way. And I guess for that reason, in the past, we have expressed concern about bills that did have a landfill ban before you had a recycling system in place. I guess it's our opinion that it's better to have some of these electronic products like TVs in the landfill where you have a licensed landfill with lining to protect the environment than it would be to have them end up in the ditches. So we do support the bill and think it's a good idea to work on a creative workable system to recycle this kind of waste. [LB583]

SENATOR LOUDEN: Any questions for Gary? Seeing none, thank you, Gary. [LB583]

GARY KRUMLAND: Um-hum. [LB583]

SENATOR LOUDEN: Any other proponents? Any opponents? [LB583]

THOR SCHROCK: Chairman Louden, members of the Natural Resources Committee, my name is Thor Schrock, T-h-o-r S-c-h-r-o-c-k. I represent Schrock Innovations, Incorporated, and I'm here before you to testify in opposition of LB583. The intentions behind this bill are noble. They strive to create a cleaner environment for all of Nebraskans; it's a good thing. The intent behind this bill is to shift the cost, as you've heard, of recycling electronic waste off the backs of the consumers and put in back onto the manufacturers. And this just doesn't cover computers. There's been a lot of talk about computers and televisions. The bill covers anything with a four inch screen or larger. So that's going to include for example, portable DVD players, GPS navigation devices, it does explicitly exempt Palm Pilots or pocket organization devices so if you

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use those, you won't have to deal with that. But unfortunately, I don't believe that LB583 is going to achieve its objectives for several key reasons. First, this bill is going to disadvantage small businesses incredibly in competition. This point is probably best illustrated by an example. There's been a lot of talk about Dell today, I almost feel like there should be a Dell guy here to talk in their defense. But under the definitions of who a manufacturer is in the bill, it's apparent that Dell is considered a manufacturer. Rightfully so; they sell their computers through a distribution network including wholesalers. However, Dell also sells computers directly to individuals without the use of a distribution network. So I'm certain that the intent of the LB583 is not to only tax, I'll use the word tax, a fee tax, but only tax half of the computers that Dell sells...the intent is to tax all of them so they all get recycled. Therefore you could also assume that a company like mine, Schrock Innovations, and we sell a lot less than 200 PCs a year right here in Lincoln, Nebraska, is also a manufacturer because we assemble computers in very much the same way that Dell does. We put them into consumers' hands and then when the consumer is done with them, we actually have a recycling program that we can take them back from the consumer, trying to be a responsible corporate citizen. But the question in this bill is that by definition, Schrock Innovations is also a retailer. So and the retailers in this bill police the manufacturers, so are we a retailer? Are we a manufacturer? Do we pay for the monitors that we sell that we simply order from the coast...when they come in from China to a wholesaler? Well, the Chinese wholesaler does not give a rat's rear about the state of Nebraska, I'm sorry, I love living here, I love this state, but they don't care. And so when these monitors come into California and the wholesaler in California is not going to apply any pressure on--we have one contact on the coast for the entire state of Nebraska with the largest privately held computer component manufacturer-distributor in the nation--one guy handles Nebraska. I don't think there's going to be any significant pressure applied on overseas manufacturers to comply with this bill. So are we the manufacturer? Are we responsible for paying the tax on those flat panel displays, those 17 inch wide screen or 19 inch wide screen monitors that we sell? Or does the manufacturer have to pay for them? So that's a question that I don't feel this bill successfully addresses. Now Dell, they might just decide to comply and pay the tax on this. Their economies of scale under this new tax make this thing look like an afterthought; they'll comply. But for Schrock Innovations, these taxes just might make us think twice before we decide to sell computers. Maybe we should sell Dell's instead. Maybe we should take our product out of the Nebraska's marketplace, a product that competes successfully I might add, not on cost, not on price, but on service. And so we're going to take that service-based product which is a computer that we provide support, service, maintenance for, and get rid of that. Because honestly, I have eight employees and I would challenge any one of you to squeeze another ounce of work out of these (laugh) kids without making them rebel against me. There's just no room left to compete on computers, the margin is smaller than a grocery store anymore. So I don't feel that Schrock Innovations would be able to successfully implement these taxes if they are passed into law and we would probably just end up taking our computers out of the marketplace and selling one of the national

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brands that has to worry about complying with the European Union standards and whatnot. We have a hard enough time competing against national giants like Dell and the local box stores. I think I could probably speak on behalf of most of the computer builders in Nebraska, the local computer builders, when I say that the last thing that we need is another barrier to entry in the marketplace and that's what this would be. Two, the bill's assumption is flawed. The whole premise of the bill is flawed. It's incorrect to assume that the majority of manufacturers, especially those with no physical presence in the state of Nebraska, are going to comply with this. Continuing with our example of Dell, what happens if Dell does not comply? Unlikely, but let's just say as an example, Dell says, we're not going to pay it. I'm certain that they are going to continue to send catalogs to Nebraska. I'm certain that Nebraskans will continue to go to Dell.com and purchase computers and I'm certain that Dell will continue to ship those computers to Nebraska. And what is Nebraska going to do about it? Well, they're going to pay the vouchers to the recyclers to get rid of the computers when they are done. The state is generating an obligation on itself by passing this bill, not the other way around, not an obligation on manufacturers. Because let's face it, most of the stuff is not manufactured in Nebraska. So for Schrock Innovations though, it's a different story completely. If we don't register, report, pay a tax, we subject ourselves to unspecified consequences under LB583. And in a way, LB583 really shifts the burden of funding computer recycling or electronic waste recycling off the shoulders of consumers, but it shifts it onto the shoulders of local businesses that try to sell these things and compete on a local basis. Third, LB583 is going to decrease the selection of electronic goods that are available for sale in Nebraska while increasing the price of the goods that remain on the shelves. Many of the least expensive electronic goods that are available in Nebraska come from overseas. Most of the microchips are manufactured in Taiwan. Those microchips are then assembled onto circuit boards in China where they are then shipped to the coast, New York and California, where the wholesalers redistribute them into Nebraska and other states. These overseas manufacturers establish legal entities in the United States so they can do this and in turn their goods get to the local retailers. Now like I said, I love Nebraska, I love my life that I have here, my family is very happy here, it's a comfortable place to do business right now, but it's simply not heavily populated. We don't have the population of a California or a New York. If we did have that population, oh yeah, they would comply in a heartbeat, but we don't, and they won't. So as to the Nebraska retailer that wants to offer a low cost, high quality good, is going to have to remove some selections from their shelves since the companies that manufacture the cheapest goods that compete against some of the higher end goods, they're not going to comply. They don't have it in their price point, they're competing on a price point on a low cost platform. You increase their cost of doing business, where do they go? They are not competing on service, they're not competing on support, they are competing on price. You take that away? The goods are going to go away. So Nebraska is an afterthought to them and they are not going to shed a tear if their products are not sold here, because quite honestly, we are probably a little more than a footnote in any kind of financial statement they might ever have. Now the goods that are produced by

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manufacturers who do comply with this, will still be on the shelves of course, but their prices are going to be higher because not just the 50 cent per pound tax is going to have to be dealt with, but there are other fees, administrative duties, and expenses involved with getting their product now, into the Nebraska supply chain that did not exist before. People pay these taxes, people fill out the forms. It takes people to do this. Even the mighty Dell cannot automate paying taxes to the state of Nebraska unfortunately. Here is a question I'd like to pose. This has come up a couple of times and I'd like to put a hard point on this. If you go to the Omaha Best Buy, 72nd and Dodge, and you see a computer there that costs \$999 and then you find out that you can drive 15 minutes to Council Bluffs and save \$25 or \$50 on that exact same computer, I would do it. Maybe I'm a stinger, I would do it. I would drive to Council Bluffs and spend the money because I am shopping based on price. And there's always going to be a certain number of consumers who are going to shop based on price. So if we follow that through, the state is actually going to use quite a bit of sales tax revenue on this as well as an unintended consequence because even though the prices are a little higher, which means a little more sales tax money will come in, we're going to lose a lot of sales to neighboring states and that's just on the consumer side. As a business, we get requests for quotations from companies in Iowa and we have to compete against other companies within Iowa that are trying to get those same jobs or those same bids. And if we...if the prices for our goods are higher than theirs, we simply can't compete. It's all based on price and computers, it's a commodity. And if you introduce an artificial elevation to a price, you're done. Lastly, you guys, LB583 will not effectively shift any e-waste financial burden away from consumers. This is something that you have pointed out, Chairman, as well as a few others today. That's the single greatest flaw in my opinion of LB583 is that it's smoke and mirrors. It does not achieve its core intent because the cost of recycling e-waste in Nebraska will not be shifted away from consumers. Call it anything else you want, it's still a tax, it's going to be assessed on consumers, on real people, who will pay real cash dollars out of their wallets to fund this program. While I'm certain that Nebraska consumers are going to appreciate the ability to recycle their computers for free, because they may not know they're paying the tax, I'm equally certain that they will not appreciate paying more for the goods that they buy at the stores. I am sure that Nebraska's taxpayers will not appreciate the Legislature having to appropriate more money in the future, in future budgets, because LB583 has an insufficient provision for paying the costs to recycle those estimated one million PCs or 997,997 if we take yours out, that are in storage right now in the state of Nebraska. In the past times that this bill has come before this committee, the committee has rejected it because they do not want to institute a price increase on consumers. That's exactly what this is going to do. It's worded a little differently, a little fancier, a little harder to understand for the average person including myself--had to read it four times--but that's what it does at the end of the day. In addition, LB583 does not detail how recycling the electronics that are purchased outside the state of Nebraska or through mail order channels will be handled or funded. So for example, if one of these mail order companies or a small company, for example before they were purchased, a company named Alienware sold very high-end

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computers for gamers, they were very popular. Alienware probably didn't sell too many computers in Nebraska, so my guess is they probably wouldn't even know about the Nebraska law, let alone comply with it since they don't have a physical presence here. So who is going to pay to have those Alienware computers recycled which were typically very large monitors because they are for gamers, they're very heavy. They have heavy power supplies, lots of materials that would be covered by LB583. So who would pay for that? Well, the question is, the Nebraska taxpayers are going to pay for that--that's the answer. If nothing else, the introduction of LB583 raises awareness for the need for local companies, local companies in the private sector, to help create recycling programs for their customers. That's exactly what Schrock Innovations has done. We try to be a responsible corporate citizen and take equipment from consumers. We don't shred it, we don't smelt it, you are not going to see me back there in the back room, you know, smudge marks on my face running a smelter, you know, melting this stuff. We separate it and we take it to the people that can handle it. The answer to this problem is in the private sector and the passage of LB583 into law would only slow the adoption of private sector programs. It would also render existing programs like ours, obsolete. Why should we even have to bother with it if the state's going to pay for it? I mean, it's a cold reality. Maybe it doesn't sound very nice but if our customers can take their computers to the state for free to get them recycled in one form or another, we're going to send them to you because we don't want to do it. We do it because it's the responsible thing to do. If LB583 should become law, the unintended consequences to the state, its taxpayers, and most importantly its small businesses--the sales tax revenue of this state, the sales tax engine of this state--would be irreparable. Mr. Chairman, thank you for the opportunity to appear before you here today. I'd be happy to answer any questions the committee might have for me at this time. [LB583]

SENATOR LOUDEN: Questions for Thor? Senator Dubas. [LB583]

SENATOR DUBAS: Thank you, Senator Louden. Thank you for bringing this perspective to the table, I appreciate that. It's obvious this has been an ongoing process for several years trying to address this issue and they talked about having stakeholders at the table. Were you or your interests represented in any of these? [LB583]

THOR SCHROCK: My company is a member of the Nebraska Chamber of Commerce. We are a member of the Lincoln Independent Business Association. And at no time was I ever made aware through the committees of those organizations that we were asked for our opinion. Actually, the bill was brought to my attention by the Lincoln recycling office, telling me what a great deal it was and it was a pretty exciting thing when I read it, I was really excited for it. And then when I started reading of the responsibilities, we would have to check a state registry before we sold any product to any consumer to make sure the manufacturer, which may or may not be printed in Chinese on the microchip, is listed with the state of Nebraska. Then I got concerned because it's tough enough for us to compete now because of the price difference between national goods

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and local goods. But you throw something like this on the back of it, that administrative burden, would just crush it. [LB583]

SENATOR DUBAS: A question that I asked of Senator Preister is that did he feel this bill would encourage or support the private industry and maybe public-private type partnerships and he felt that it would. [LB583]

THOR SCHROCK: I think that there's a lot of testimony that I've heard today that comes from one perspective, the perspective of the national computer manufacturers which, if you look at the numbers, that's where most of the computers come from, so I'm not sure that's inappropriate that it would come from that perspective. I want to bring the perspective of a local computer manufacturer that creates local jobs in Nebraska that pays Nebraska taxes, that struggles to make payrolls and pay health insurance and health benefits, and what I'm saying is that anything that makes it harder for us to do business is something that's going to endanger that. So the bill itself, like I said, is a very noble bill, it's something that needs to be addressed. However, I believe that there are other ways that this can be addressed. For example, incentive programs for businesses from the state to introduce their own recycling programs rather than mandating that this is how you will do this and you will check this registry, why isn't there a tax credit for example? I'm probably at the wrong committee for this, (laugh) but a tax credit for example, on recycling? Rewarding manufacturers or retailers depending on how you define them for being responsible. There's no incentive right now so I see a big stick coming (laugh) and I'm thinking, well, you know, maybe if I come today and talk to you guys and make sure that...hopefully I'm not the only one here talking against this because there were some pretty persuasive stuff earlier. But at any rate, the bottom line is it would not be good for my business, or if I could be so bold to speak for other business owners who do the same thing I do here in Lincoln who are my competitors, it would not be good for our businesses at all. [LB583]

SENATOR DUBAS: Well, I definitely personally support small businesses, local businesses, I wouldn't want to do anything that would put you in harm's way. But at the same time, this is a very real problem and it's a growing problem and is the private sector willing and able to step up to the plate quick enough to address this? [LB583]

THOR SCHROCK: Sure. One of the things that I have seen in my many, many years of life (laugh), is that over time the many private sector companies will create programs to deal with situations that will specifically prevent legislation from being passed. In other words, rather than being regulated, let's regulate ourselves, that's a better way to do it. Schrock Innovations, for example, we take computers so you could drop your computers over at our shop too. CP would probably get the monitors eventually anyway. (Laugh) We charge a \$15 charge per monitor to take the monitors, they are heavy, they are hard to transport. We do transport them up to Omaha. I drive a 1991 Ford F150 and you'll see me going back and forth quite a bit, so we do transport them. The computers

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themselves, we disassemble them. We don't recycle the parts, we don't shred them, we don't smelt them, we disassemble them, and then route them so that the places that recycle them can recycle them. It's a line item expense in our budget, we pay money to do this. Originally we said, let's do it for free because we can get a great press release out of it, get some media attention and really take the forefront. And then we literally had four tons of computer equipment dropped on our doorstep the next morning, so there is definitely a need for this. And then we started charging \$15 a monitor, we might get two monitors a week now. But one of the things that we were able to do with flexibility is we were able to say is, when we do get something dropped off, we have a list of customers who are underprivileged. I haven't heard anyone from Goodwill, but I know the Lincoln Action Program contacted us because they get so much stuff dumped on them for underprivileged people, the trouble is that most of the stuff that gets dumped on them is absolutely worthless. It's a liability to them and that's why, to my knowledge, Goodwill right now will not take a computer system unless it's a complete functional system because they don't want you dumping monitors on them, because it's an expense to them to get rid of them. So in summary, if the private sector has some incentive, whether that incentive be financial, that incentive be avoiding legislation that is unnecessarily restrictive, they will take action. For example, Dell does have a green program. They do have a recycling program that they do have in place. And they are actively working on reducing the number of bad chemicals that are in their computer systems. And let alone the introduction of lead, for example, is almost becoming an afterthought with the new computers that are in existence today because new computers right now, today, use LCD displays almost entirely. There is no glass in them or the glass is very thin. The level of contaminant--there are still contaminants, but the level is much lower. In fact, right now in Japan, not to get you too much inside baseball here, but in Japan at an industry seminar, there was a new polymer screen. It's flexible, it's plastic, it's made of plastic, you unroll it. There's no glass in it, there's some wires in it and plastic. Then there is talk that they'll be using that in the military for mobile durable displays. It's only a matter of time until that is put down into the supply chain for consumers. This problem eventually will change, it will evolve. It won't go away, there will always be e-waste but it will evolve. [LB583]

SENATOR DUBAS: If I lived in Lincoln and Omaha I wouldn't have a problem getting rid of my computer, but I live in rural Nebraska so I don't have quite the availability of access to deal with that and so, again, it's an ongoing problem... [LB583]

THOR SCHROCK: Yes, it is a challenge... [LB583]

SENATOR DUBAS: ...and it's one that we definitely have to address and... [LB583]

THOR SCHROCK: For example, I believe in Dell's program, not that I'm encouraging you to buy a Dell over a Schrock Innovations modular PC, (laughter) but if you do buy a Dell, you are entitled to, I believe it's either free, or for \$15 you can put your old

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computer in the box and send it back. So I mean, that's just another way...now granted it's a barrier, I mean, anything that requires more work, people are less likely to do. [LB583]

SENATOR DUBAS: That's just it, if it takes any energy... [LB583]

THOR SCHROCK: But on the other hand, I think the consequences of advancing this bill would by far, outweigh any benefits that we would get as far as computer recycling goes. I genuinely believe that. [LB583]

SENATOR DUBAS: Well, I know Senator Preister is very committed to this bill and he did make the comment before he left, that, you know, he is willing to do whatever it takes to make things move forward and help us address this so I'm hoping that we can make that happen. [LB583]

THOR SCHROCK: Thank you. [LB583]

SENATOR DUBAS: Thank you. [LB583]

SENATOR LOUDEN: Other questions? Senator Wallman. [LB583]

SENATOR WALLMAN: Thank you, Senator Louden. Well, you brought something near and dear to my heart, you know? We bought a computer on the Internet too, so you bypass, and I didn't like my wife did all this (laugh) and I have a little trouble with that no sales tax and then if we put a charge on these manufacturers, at least we'd get some money, you know? And that would be a back door way, but I appreciate your perspective and I don't...it's a complicated problem because I live on a farm. You know where that stuff gets dumped? In the ditch. [LB583]

THOR SCHROCK: Um-hum, yep. [LB583]

SENATOR WALLMAN: It's not my stuff, but so then where do I go with it, you know? Thank goodness I can put it in the trunk and go to Omaha. I guess I'll go to your place. But, we'd appreciate some suggestions if you think you have some better ideas. [LB583]

THOR SCHROCK: Well, and that's always the challenge. I'm not a big fan of people who come to the table and grinch, if you will, and not have anything to offer. Part of what I lack in this experience is this is my first time I've testified if you couldn't tell, before any committee anywhere. So I have no prior knowledge other than what I've heard today about this bill and its previous six years of evolution. However, I believe, in my heart, as a retailer I would not be opposed to collecting a tax on the sale of the computer. I would not be opposed to it because the other thing is, you don't have to collect at the point of sale. You do not have to collect the entire amount required to

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recycle the computer. Because that money is going to get put into a fund and the average computer user will upgrade or change their computer in some way once 18 months and they will replace it once very 24 to 36. So you take that five bucks, you throw it in a fund for three years where it earns interest and you know, you can diffuse some of this expense a little bit. But I'm concerned that this bill, there's a "do somethingism" to it. You know, we've been working on it for six years, let's get up and do something, we've got to do something. Well, sometimes doing something that's not right is worse than not doing anything at all and I think this is definitely the case. [LB583]

SENATOR WALLMAN: As a consumer, you know, we pay \$25 or something for a used appliance so don't you think there's a growing awareness though, the pollution problem? [LB583]

THOR SCHROCK: Oh absolutely, that's the entire reason we instituted a program, because our customers asked for it. And we said, well, maybe we should be taking some responsibility, we don't actually manufacture this stuff, but we do distribute it into the Nebraska ecology. So maybe we should be responsible for getting some of it out of the ecology. And that's one example I could say, I mean, I would hope that some of my other competitors would do the same thing but...it's a small program. We don't do a whole lot of tonnage. I think last year we did two tons total of e-waste. But we do for consumers...we take the computer towers free. We take the keyboards and the printers and all that stuff for free. Office Max recycles the printer cartridges. We take them to Office Max, they give us free paper. I mean, we are doing everything that we can do to be a good corporate citizen. But I can tell you, if this bill went through in its current form, we'd be scrambling, trying to form a partnership for some kind of a collection facility because we wouldn't meet the requirements under the bill of a recycler. [LB583]

SENATOR LOUDEN: Any other questions for Thor? Seeing none, thank you. [LB583]

THOR SCHROCK: Thank you. [LB583]

SENATOR LOUDEN: (Exhibits 6, 7, 8, 9) Are there other opponents? We have three letters of opposition, one of them Phillips Manufacturing, signed by Mr. Erdheim, Senior Counsel; and then Consumer Electronics Association, signed by Parker Brugge, Senior Director; and American Electronics Association, signed by Edwin Longanecker, Executive Director. These are read in as opposition to LB583. Any more opponents? Anyone in the neutral capacity? Mike, since you're probably the one that's going to have to make it work, what do you have to say? [LB583]

MIKE LINDER: It sounds like an invitation. Good afternoon, Senator Louden, and members of the committee, my name is Mike Linder, I'm director of the Nebraska Department of Environmental Quality. And I'm here not in a testifier position, but certainly willing to answer any questions if we can. Also with me today is Bill Gidley. Bill

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is in our hazardous waste program and solid waste program, for the more technical questions. [LB583]

SENATOR LOUDEN: Well, I'll ask the first question here. Did you look at the fiscal note on this thing? [LB583]

MIKE LINDER: Yes. [LB583]

SENATOR LOUDEN: Okay. It's going to cost two hundred and some thousand dollars expense because you are going to need some extra employees and that sort of thing, is that correct? [LB583]

MIKE LINDER: That's correct. And if you look at the fiscal note, we would need to set up a program before we would have revenue actually coming in and that's why you see in the first fiscal year, a General Fund impact? That would be offset then once revenue started coming in. But you asked a question earlier about vouchers and how that is all going to work, we would have to set that program up really, before we had revenue actually coming in. So that's the personnel impact immediately. And then we estimated 2.5 additional FTEs to run the program. Senator Preister indicated that he felt much of that could be offset by contracting and that could be true although I don't think it's ever a good idea to entirely contract out a state program. I mean, we still have policy decisions and enforcement considerations, so I would hesitate to say that we could contract the whole amount out but that's our estimate on what it would take to run the program. [LB583]

SENATOR LOUDEN: One other question I would have is how would you...if these people had to send in a voucher to get paid for whatever they were doing, how would you tell that that's what they actually did? [LB583]

MIKE LINDER: Well, we have a number of programs that have essentially a self-reporting feature to them and we still do routine inspections and audits and so I assume it would be roughly the same process. I can't say I thought through all of the mechanics that the bill sets up. [LB583]

SENATOR LOUDEN: But would this be some way you'd go and paw through their books to see what they did or how would you do that? I mean, would you look their bookkeeping over or would you have some other... [LB583]

MIKE LINDER: In other programs we would do a random either inspection or go review books in probably a similar situation although as has been indicated, a lot of these manufacturers don't have a presence in Nebraska so that would make it a challenge. [LB583]

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SENATOR LOUDEN: Other questions for Mike? Senator Christensen. [LB583]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. How do you propose collecting from overseas manufacturers if it was put that way? Does that a problem? [LB583]

MIKE LINDER: I don't know if it's a problem or not; I think it would be complicated. I think it would take a lot of planning on how to actually do that. And I've looked at other states that have similar programs and as far as I can tell, California, Maine, Maryland, and Washington have mandatory financing programs. I don't know if they are anything comparable to what's proposed here. But that's the first thing I'd do is call those states up and say, how do you do it? And it's not a program similar to anything we do now. There may be other similar programs in the state and actually I think the bill sets up for the Department of Revenue to actually collect the tax and so they may have a process, how they collect from foreign entities. [LB583]

SENATOR CHRISTENSEN: So it's really a question we need to ask Revenue how that could be collected because I agree with the last testimony that I don't want to put a burden on local businesses. So to get that question answered we would need to talk to Revenue as a committee to find out how they would collect it and if there's obstacles? [LB583]

MIKE LINDER: Typically, yeah, any program that we have that benefits from a tax, the Department of Revenue actually collects it. I believe that's the way it is set up in this bill. [LB583]

SENATOR CHRISTENSEN: Thank you. [LB583]

SENATOR LOUDEN: Other questions for Mike? Senator Carlson. [LB583]

SENATOR CARLSON: Senator Louden. Mike, in this being my first experience at listening to testimony on various things, here...first of all, do you agree that this is a problem? That... [LB583]

MIKE LINDER: I think nationally it's being recognized as an issue that's got to be dealt with. How do you make it a convenient program for people to dispose of this type of waste? It's similar to household hazardous waste and what we've done in Nebraska in household hazardous waste is we've funded through other programs and our agency funded household hazardous waste collection events. In actually some of them, I believe Bill can correct me if I'm wrong, but some of them we feature and encourage electronics to be brought to those collections. And we've also helped fund several recyclers and so that's...we're doing it in kind of a nonprogrammatic way currently through funding, grant applications. But as was mentioned earlier, that's kind of a

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shotgun approach on where, what parts of the state are covered and how convenient it is. I know states all across the country are struggling with this. Usually the federal government steps in on a program like this and creates its own program but they haven't done that in this arena, at least for household waste. [LB583]

SENATOR CARLSON: Well, in observing this and other things, a problem exists and there doesn't seem to be a complete answer as to how to deal with it, so nothing gets done. And so here's a hard question; do you want something done? (Laugh) [LB583]

MIKE LINDER: Well, I think there are things that can be done, we've given some suggested language to Senator Preister's office as he indicated. One avenue would be to use our grant programs and to create a priority for electronics, would be one suggestion. What we did...for those of you who have been around the scrap tire issue, that's one thing we did in the scrap tire arena. Now there's a landfill ban on scrap tires which I don't think anybody wants to go there on electronics, but that's an idea. You know, it's not the comprehensive infrastructure that we're kind of striving for in the introduced legislation, but it's something that can be done with the current program at really probably no cost but low cost administratively for us. The struggle with a complicated bill like LB583 is to try to do it with current staff is really impossible. [LB583]

SENATOR LOUDEN: Other questions for Mike? Senator Fischer. [LB583]

SENATOR FISCHER: Thank you, Senator Louden. Thank you for being here, Mr. Linder. Of course, in this bill, in Section 18, it gives the department the authority and the job to set the rules and regulations. Under Section 15, I don't know if this is common or not and maybe you can answer this. I'm curious about enforcement. And what I find in the bill in Section 15 kind of deals with enforcement. It says, "The Attorney General or the department may initiate an action to enforce any provision..." Is that common language? [LB583]

MIKE LINDER: It's not common for us. We have, our current enforcement process for all of our other programs is the department has the ability to issue orders administratively within our own agency for enforcement. If the situation is very complex or our administrative orders have failed, or we want to collect some kind of penalty, then we go to the Attorney General's Office for their assistance. We don't have, kind of, concurrent jurisdiction to go into a court which it sounds like what this is, so it's a little bit different. [LB583]

SENATOR FISCHER: Thank you. I thought that was unusual. You made the comment that you had offered some suggestions to Senator Preister in dealing with this issue. Are some of those suggestions in this current bill proposal? [LB583]

MIKE LINDER: Some are, but some of them we just, just through discussions really this

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week we've exchanged some ideas. We would certainly be happy to work with the committee on any of those ideas. [LB583]

SENATOR FISCHER: Okay, thank you. [LB583]

SENATOR LOUDEN: Any other questions? [LB583]

MIKE LINDER: When I say the committee, I look at Jody (laughter). [LB583]

SENATOR LOUDEN: Any other questions for Mike? I would have one more, Mike. [LB583]

MIKE LINDER: Okay. [LB583]

SENATOR LOUDEN: You know, out there in Alliance we have that scrap, that amnesty tires we call it and that's quite successful out there. If you did something like that with your amnesty TVs or your computers or whatever it is, you know, and everyone brings them in, you got a big pile of them. Then you have your grant money haul them to somebody that takes them apart and recycles them. But it would take more money than scrap tires because with scrap tires all they do is they need transportation, but with these things you also need some money to pay somebody to take them apart, or can they be ground up and made into whatever. [LB583]

MIKE LINDER: Well, it's more comparable to me to our household hazardous waste grants that we give. With the scrap tire program it's actually really a disposal cost because a lot of those just go to monofils in other states. But with the household hazardous wastes program those grants also include enough money to dispose of the products properly and a lot of those are packaged and treated as hazardous waste. Much of it's burnt out in the incinerator by Kimball. You know, they go to a proper disposal facilities... [LB583]

SENATOR LOUDEN: These televisions or... [LB583]

MIKE LINDER: ...and household hazardous wastes. No, household hazardous waste where you dig... [LB583]

SENATOR LOUDEN: Oh, the household. Okay. Now along this line on this amnesty deal, everybody pays a dollar for your tire to do that with. Then would we get back to paying a dollar on this TV or thing, to have a...where would you get your grant money, I guess, to dispose of these electronics? [LB583]

MIKE LINDER: Well, you could use some of the fees that are in the bill currently. I think that's the suggestion basically that we use them. [LB583]

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SENATOR LOUDEN: But you get back then to either if it was on the manufacturer you'd be right back to having to have staff... [LB583]

MIKE LINDER: It could be the same problem, yeah... [LB583]

SENATOR LOUDEN: ...I mean, that wouldn't solve that problem, it would just solve when we got rid of them but I was wondering if there was any way on the front end that could be, unless you charged a buck for everything that was sold in Nebraska, okay? [LB583]

MIKE LINDER: Thankfully I don't do taxes (laugh). I pay them but I don't do... [LB583]

SENATOR LOUDEN: I see. You don't think up this stuff, you just make it work, huh? [LB583]

MIKE LINDER: Yeah. [LB583]

SENATOR LOUDEN: Okay. Any other questions for Mike? I guess seeing none, thanks, Mike, for testifying. [LB583]

MIKE LINDER: Thank you. [LB583]

SENATOR LOUDEN: Anyone else wish to testify in a neutral capacity? Seeing none, then I guess Senator Preister isn't here to close, so I guess we'll close the hearing on LB583. That's it. [LB583]

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Disposition of Bills:

LB503 - Indefinitely postponed.

LB583 - Held in committee.

Chairperson

Committee Clerk