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Natural Resources Committee
March 11, 2009

[LB439 LB644]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, March 11, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB439 and LB644. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Tanya Cook; Deb Fischer; Ken Haar; Beau McCoy; and Ken Schilz. Senators absent: None.

SENATOR LANGEMEIER: Good afternoon and welcome to the Natural Resources Committee. We'd like to welcome everybody that's here in the crowd and those watching us on closed-captioned TV as well as those that are viewing us on the Internet on our new live feed as we continue to keep ourselves accessible to the Nebraskans across the state. My name is Chris Langemeier, chairman of the Natural Resources Committee. I'd like to introduce those people that are up here with us today that will be asking you questions throughout this process. Starting to my far right or your far left, we have Barb Koehlmoos, the committee clerk; we are in absence of Senator Cook, but she will be with us in a little bit, represents Omaha, District 13; we have Senator Tom Carlson from Holdrege, Nebraska, District 38; we have Senator Deb Fischer from Valentine, Nebraska, District 43. To my far left or your far right, we have Senator Beau McCoy from Omaha, District 39, the Elkhorn area; we have Senator Ken Haar from District 21, north Lincoln, southern Saunders County; we have Senator Ken Schilz who will be with us in a little bit, I believe he's introducing a bill in another committee, from Ogallala, District 47; and we have the vice chair of the committee, Senator Annette Dubas from Fullerton, Nebraska, District 34. We have Laurie Lage as the legal counsel for the committee. Those helping us as you have things to hand out, we have two pages today, we have Justin Escamilla from Scottsbluff, Nebraska, and Malinda Frevert from Omaha, Nebraska. As you prepare to come up and testify today if you do choose to testify, we ask that in the corners of the room there are these green pieces of paper, we ask that you fill that out and fill it out in its entirety. Helps us keep a good, clean record of today's hearing. When you come forward, please give that to the committee clerk as you come up. If you're here and you'd like to be on the record as having a position on either of the two bills today but yet you don't care to testify, there's this form which is also located on the little tables in the corner that you can put your name and address on and the bill number and whether you support or oppose. And that will be added to the record. We ask that when you come up to testify that you state your name and spell it, both first and last name, no matter how simple. It helps us keep our records straight. With that, at this time we'd ask that you turn your cell phones off so as not to disrupt the hearing process as people come up to testify. If you are going to hand something out, we ask that you give us ten copies. If you know right now that you're short some copies, please raise your hand and one of the pages will come help you with that and make the additional copies. Also, if you have something that you are going to want us to see, if you do give it to the committee we are going to keep it and put it in the record. So if it's something you want us to see but you want it back, just hold it up at the table or show it

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to us afterwards individually. With that, we will open the hearings for the day. And we will start with Senator Fischer on LB439. And welcome to the different seat in the committee, Senator Fischer. [LB439]

SENATOR FISCHER: Thank you, Chairman Langemeier and members of the Natural Resources Committee. For the record, my name is Deb Fischer, F-i-s-c-h-e-r, and I am the senator representing the 43rd District here in the Nebraska Unicameral. LB439 establishes the Home Energy Alternatives Act. The rationale for the bill is outlined in Section 2 by documenting legislative declarations regarding energy alternatives. Such observations recognize that heating, cooling, and lighting are expensive for homeowners and business owners. Although energy costs are rising, alternative energy methods are more available and less expensive. It is in the public interest to encourage renewable energy resources. Those who choose to develop energy alternatives lessen the need for other plans and type of energy, and that providing mechanisms and protections at the state level serves a public purpose for the use of alternative energy. Section 3 of the bill provides definitions to the terms referenced in the act. Sections 4 and 5 address the particular issues that may be a barrier to alternative energy use and development. LB439 specifically voids a covenant restriction easement or other provision in a deed or conveyance that prohibits an energy alternative improvement at the residence or a business. The act would supersede ordinances, zoning regulations, or other provisions enacted by a political subdivision that prohibit an energy alternative improvement. This will become effective on December 31 of this year. LB439 does allow for exceptions so that if a grantor or a political subdivision determines that it is in the grantee or the public's interest for the health, safety, or welfare of the residents, they may prohibit the development, placement, or installation of an energy alternative improvement with respect to that covenant restriction ordinance or a zoning regulation. LB439 also includes specific statements regarding the interpretation of the Home Energy Alternatives Act. I introduced this bill for discussion purposes. Many times people in sparsely populated areas of our state can more easily install alternative energy improvements because there are few, if any, housing development covenants. In our cities, however, it's my understanding that some subdivisions don't even allow clotheslines in the backyard, let alone solar panels on the roof. I introduced this bill to provide an opportunity for those who may desire to install energy improvements the opportunity to present their views to this committee. I believe that with the increased call for utilizing renewable energy resources, it's important to discuss and address the hurdles that may prevent citizens from implementing alternative energy improvements on their property. I think that LB439 can start a constructive conversation to focus on the challenges of further developing and installing these mechanisms. Thank you very much. [LB439]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Are there any questions? Seeing none, thank you very much. Are there any testifiers wishing to support? At this time we'll announce we're going to use the lights. And so you'll get a green light for

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three minutes, the yellow light for one minute, and then the red light we'd ask that you be done so we can ask you questions. So please come forward, testifiers in support. Welcome. [LB439]

MARY HARDING: Thank you. Chairman Langemeier, members of the committee, my name is Mary Harding, M-a-r-y H-a-r-d-i-n-g. I'm here today on behalf of the Nebraska League of Conservation Voters in support of LB439. We believe categorically that obstacles to installation of renewable energy mechanisms at both the macro and micro scale need to be addressed and discussed. We certainly welcome the opportunity to have this discussion and appreciate that this bill was brought forward this year. [LB439]

SENATOR LANGEMEIER: Very good. Very good. [LB439]

MARY HARDING: You don't need the light. (Laughter) [LB439]

SENATOR LANGEMEIER: Yeah, yeah, yeah. Are there any questions? Senator Haar has a question. [LB439]

SENATOR HAAR: Yes. Thank you. I'm fascinated by this and glad that this bill is coming forward. Do you know of instances where people are not allowed to put in renewable energy for whatever...well, clotheslines was mentioned. That's interesting. [LB439]

MARY HARDING: I'm familiar in the city of Lincoln. There are some restrictions regarding small-scale wind turbines on residential or commercial properties. And I believe the city of Lincoln has just addressed that now and allowed a very...you know, a limited scope or size of turbine to be installed on a residence. But I'm also familiar with the commercial installation that's being built to lead standards in northeast Lincoln where they had intended to put three turbines on the building, partly for advertising and partly because it would provide energy and be an economical investment for the business. And they have not been able to overcome their zoning restrictions in the commercial district. So I am aware of at least one case. [LB439]

SENATOR LANGEMEIER: Senator McCoy. [LB439]

SENATOR McCOY: Thank you, Chairman Langemeier. I find this fascinating also. It just occurred to me when Senator Haar asked that question. My wife and I were on vacation at a resort in another country last year and they had a wind turbine disguised as a palm tree, which was (laughter) somewhat unique. But what caused me to think of that just now is being someone who's been involved in construction all my life, you do have to balance that, what is somewhat tasteful but yet is useful. And I would be curious to know if you have any ideas of how that could be done in subdivisions where, especially as you said small-scale wind turbines that you could envision perceivably if everyone

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had one that the aesthetics might not be all that great, however useful that it might be. Is there a way or ways, do you think, that we could balance that as we kind of think about this in urban settings especially? [LB439]

MARY HARDING: You know, what we're talking about at this point with aesthetics is a matter of taste. And I'm probably not the best person to answer this question because to me what's distasteful is global warming, to me what's distasteful is fossil fuel pollution. And so, you know, I'm thinking this neighborhood you're hypothetically proposing where everybody has a turbine, I'd try to organize a neighborhood association and get everybody together and invest in one that's more efficient for the neighborhood. But in terms of aesthetics, I probably am not...I'm not one who finds them ugly. [LB439]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none, thank you very much for your... [LB439]

MARY HARDING: Thank you. [LB439]

SENATOR LANGEMEIER: Thank you very much for your testimony. Further testimony in support of LB439? (Exhibit 1) I have a letter from Marvin Krout with the city of Lincoln in support of LB439. Is there any testimony in opposition to LB439? Welcome. [LB439]

ELAINE MENZEL: (Exhibits 2, 3) Senator Langemeier and committee members, for the record, my name is Elaine Menzel, M-e-n-z-e-l, from the Nebraska Association of County Officials. And given that this is for discussion purposes, our opposition is not stringent by any means and we look forward to working with Senator Fischer and committee members in trying to address some of our concerns. Those relate to the zoning aspect and the fact that it would potentially negate some of the things that counties have done with respect to wind and solar energy and that type of thing. There are current provisions in statute that do allow counties to adopt zoning regulation for health, safety, and that type of thing. This bill appears that it would be duplicative to require counties to readdress those issues that they have already dealt with. I do have for the committee's information a copy of a map that shows the counties that do currently have county zoning, and then also we conducted a survey last October that showed those counties that also specifically addressed wind energy, for example. And with that, I'll take any questions. [LB439]

SENATOR LANGEMEIER: Are there any questions? Senator Haar. [LB439]

SENATOR HAAR: Thank you. Can we get copies of that? [LB439]

ELAINE MENZEL: I'm trying to. (Laugh) [LB439]

SENATOR HAAR: Oh, okay. [LB439]

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ELAINE MENZEL: Sorry. [LB439]

SENATOR HAAR: So it's not really a question. Yeah, but I'd be very interested to see that. Thank you very much. [LB439]

ELAINE MENZEL: And then if you do want specific examples in terms of language and that type of stuff, we do have some of that information at our office. Could I get a page, please? [LB439]

SENATOR LANGEMEIER: Than you. I have one question. [LB439]

ELAINE MENZEL: Okay. [LB439]

SENATOR LANGEMEIER: You talked about your opposition, because this is of discussion is minor today. If I said this was going to be a committee priority and we're going to move it today, where would you go? Pretty adamantly opposed or... [LB439]

ELAINE MENZEL: Well, we're concerned that it would take away some of the county zoning authority. That we would be adamantly opposed to, that aspect of it we would be opposed to. [LB439]

SENATOR LANGEMEIER: Okay. Very good. Are there any other questions? Seeing none, thank you very much for your testimony. [LB439]

ELAINE MENZEL: Thank you. [LB439]

SENATOR LANGEMEIER: You did a great job. Further testimony in opposition to LB439. Seeing none, is there any testimony in a neutral position? Welcome. [LB439]

GARY KRUMLAND: Senator Langemeier, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I'm appearing in neutral today because we don't have a problem with the concept, but I do have just concerns mainly with Section 5. It just seems to be very broad and it would be helpful if terms were defined a little better so it was more direction on exactly what is included and what is not. I suppose one could interpret this to allow a 200-foot windmill in the backyard of a home. So I guess that I would be willing to sit down and work with Senator Fischer and the committee and try and tighten some of the definitions. But that would be the concern we have about the way it's drafted. [LB439]

SENATOR LANGEMEIER: Okay. Are there any questions? Seeing none, thank you very much for your testimony. Is there any other testimony in neutral for LB439? Jack, welcome to the committee I think for the first time this year. [LB439]

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JACK CHELOHA: Thank you. Well, it's the second time, but that's okay. [LB439]

SENATOR LANGEMEIER: Second time, that's true. [LB439]

JACK CHELOHA: I don't like to think about that other one because I was beaten up so badly, (laughter) so. [LB439]

SENATOR LANGEMEIER: All right. [LB439]

JACK CHELOHA: Good afternoon, Senator, and members of the committee. My name is Jack Cheloha, first name is J-a-c-k, last is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I wanted to register our neutral testimony on LB439 today. I apologize. I just received a phone call from our planning department right about 1:30, so I missed the opening on this. It sounds like we're going to look at it and have a little study. And so because of that, this fits naturally for me to be neutral or at least I can be at the table, hopefully, when the meetings occur. We'd like that because as Gary Krumland testified for the League of Cities, we, too, don't have a problem with the concept. We just had a little bit of heartburn, if you will, regarding the preemption of any local ordinances or zoning or things along those lines. And the reason being is I think we want to encourage this type of activity, but yet we have to do so in a manner that's careful where we don't infringe upon, you know, other people's rights or enjoyment of their property. And for those reason we'd like to be included in discussions, and I'll try and answer any questions. [LB439]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Cheloha? Seeing none, thank you very much for your testimony. [LB439]

JACK CHELOHA: Great. Thank you. [LB439]

SENATOR LANGEMEIER: (See also Exhibit 7) Is there any other testimony in a neutral capacity? Seeing none, Senator Fischer, would you like to close? Senator Fischer waives closing. That concludes the hearing on LB439. And Senator Mello is here, so we will open the hearing on LB644. Welcome to the Natural Resources Committee. [LB439 LB644]

SENATOR MELLO: (Exhibit 4) Thank you. Good afternoon, Chairman Langemeier and members of the Natural Resources Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I introduced LB644, a bill that would establish an electronic waste recycling program in Nebraska. LB644 is a reintroduction of LB986 that was introduced in 2008 by then-Senator Don Preister. LB986 passed the Legislature 42 to 4 on April 17, 2008, but was vetoed by the Governor on April 21, 2008. E-waste is the fastest growing municipal waste stream in

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the country, primarily in regards to outdated computers and televisions. The EPA estimates approximately 57 million televisions and computers are sold each year in the United States, and 20 million to 24 million computers and televisions are added to storage each year. Congress has mandated that broadcasters terminate analog television broadcast transmissions and switch to digital broadcast by June 12, 2009. The digital conversion requirement will affect the volume of televisions that need to be recycled. According to the National Association of Broadcasters, 70 million television sets will still rely on an analog signal for television service. Though several bills have been introduced at the federal level, Congress has yet to enact an e-waste legislation. Ten states have passed legislation since 2001. Since then, nine states have passed producer-responsibility e-waste legislation, including five states in 2007. LB644 uses the producer-responsibility model of electronics recycling legislation. Manufacturers throughout the country support producer-responsibility legislation in order to establish a uniform system of e-waste legislation among the states. LB644 would require each manufacturer that sells in television, computer, or a computer monitor in Nebraska to certify to the Department of Environmental Quality the number of units sold in Nebraska in the previous calendar year. A tiered fee structure would be established for manufacturers based on the quantity of televisions, computers, and computer monitors sold in Nebraska by the manufacturer. The fee structure is tiered to exempt small Nebraska businesses from paying the fee. Likewise, a tiered structure is in place for the waiving of that fee if the manufacturer has a plan to recycle the waste. All of the money would be deposited into the Waste Reduction and Recycling Fund and earmarked for grants for infrastructure development, collection, transportation, and recycling of waste. After introducing this bill, I have been in discussions with Waste Management about some potential amendments to this legislation that I recently just passed out to the committee. I'd be happy to work with the committee and all interested parties in order to create an effective solution to Nebraska's e-waste problem. I urge the committee to advance LB644 to General File, and would be happy to take any questions. [LB644]

SENATOR LANGEMEIER: Very good. Are there any questions for Senator Mello?
Senator Carlson. [LB644]

SENATOR CARLSON: Senator Langemeier. Senator Mello, you can answer this or you can defer it to another testifier if you would like. But for example on page 6, line 18, registration fees. It's \$1,000 for sales of \$500 to \$1,000. [LB644]

SENATOR MELLO: Um-hum. [LB644]

SENATOR CARLSON: And then \$7,500 for sales of \$1,001 to \$5,000. So if we assume the sale of 1,000 units, that's \$1 a unit, and if we assume a sales of 1,001 units, that's \$7.5 a unit. That's quite a difference and I don't think we want something that discourages a firm from how many units that they sell in the state. And then you go to \$20,000 for sales of more than 5,000. So again, it's the same difference there whether

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you sell 5,000 or 5,001. That's quite a difference. The, and I don't know if you have an answer to that, but I think that's a concern here. The other thing is, and I don't remember in the discussion we had last year, how do you account for people that are residents of the state that buy these units from outside of the state and bring them in, but they've got to discard them and there's no provision on those units? And maybe it's offset by those that are exported by people that move out, but that's another question I would have. [LB644]

SENATOR MELLO: That's a great question, Senator Carlson, and I couldn't give you an answer right off the cuff here in regards to how we would deal with individuals essentially importing computers or computer screens or televisions from another state into Nebraska. I would think that they would still be able to recycle them, though, under this program, which is ultimately what establishes the recycling program. But obviously the manufacturer wouldn't be charged for that appliance or device if it was bought in another state. [LB644]

SENATOR CARLSON: No. And the idea is that these fees pay for the recycling. [LB644]

SENATOR MELLO: Um-hum. [LB644]

SENATOR CARLSON: So if there was a significant number that were imported that it might throw that off. But that's a question I may ask somebody else. [LB644]

SENATOR MELLO: Okay. [LB644]

SENATOR CARLSON: Thank you. [LB644]

SENATOR LANGEMEIER: Senator Dubas. [LB644]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Senator Mello. We know that this bill has a long and storied history behind it, and it's just in my mind, imperative that we find some kind of a solution. So did you spend time with the vested parties on this trying to continue to address their concerns or are we still kind of at the same place that we've been in the past with just everybody's kind of dug in their heels and no one's going to move? [LB644]

SENATOR MELLO: I've...Waste Management will speak after I'm done in regards to some of the conversations that we've had. And actually this amendment that I passed out to the committee has come from trying to address some of the concerns that have been addressed in years past with this bill. It doesn't solve all of them, but it's my hope to work with the committee and other interested parties as well as the Governor to try to find a solution to this growing problem because I think, you know, as Senator Preister

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has worked on this issue for many years and I know the committee worked on it as well, there's no easy solution. And so I guess it's my hope to look for common ground amongst all the interested parties. And I think we've started that process with the amendment we've introduced. [LB644]

SENATOR DUBAS: Great. Thank you. [LB644]

SENATOR LANGEMEIER: Senator Fischer. [LB644]

SENATOR FISCHER: Thank you, Senator Langemeier. Welcome, Senator Mello. There was a concern last year expressed that this bill, and if it became the law, would discourage computer manufactures from locating in the state of Nebraska. Are they going to be exempt this year? Are they still in? Are...you know, how are we going to handle that concern? [LB644]

SENATOR MELLO: I think...that's a conversation, I guess, we can have with the...they were actually one of the only folks who did not contact and they sent a letter expressing their...they would not support the bill, but no further communication did I receive from them on that issue at all. So I don't know how many computer manufacturers beyond some smaller businesses in Nebraska, but it's my hope to try to exempt the small businesses who would possibly fall underneath the current language to exempt them from the bill because, once again as I stated in my opening, in no way do we want to tax or create a fee for small businesses. These are more targeted towards the large manufacturers that are producing millions upon millions of televisions and computers that are ending up in our landfills right now. [LB644]

SENATOR FISCHER: Okay. Thank you. [LB644]

SENATOR LANGEMEIER: Any other questions? I have one, Senator Mello. I want to follow up on Senator Carlson's comments about the three tiers of fees there. How important is that to have the three tiers versus...you know, if you take the low end in the first one you're paying \$1 a unit, the second one \$7, the third if \$4. How important is that or could we just say, you know, \$1 a unit? [LB644]

SENATOR MELLO: I think, my understanding from how the bill developed was the need for the tiered system was to target towards some of the larger manufacturers so we could generate enough revenue from the fees to actually enact a program. And that was something that was discussed at the beginning of this session before we introduced the bill was looking to change the fee structure if need be. And I'm completely open to that process. The concern, though, is just to make sure that whatever changes we make to the fee structure that it still keeps the actual program's integrity because we would...by taking away the fee structure you really don't have a program. So whatever balances you do with fee structure, you know, we'd just have to try to make sure it balances out

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with what the intent of the actual program will do with that. So it's not that I wouldn't say we couldn't go \$1 per item recycled, but I think that with some of the larger manufacturers that have more of the responsibility due to the production of their products, that's why I believe the structure was set up in the first place. [LB644]

SENATOR LANGEMEIER: Okay. Thank you. Are there any other questions? Seeing none, thank you very much for your testimony. [LB644]

SENATOR MELLO: And I'm going to have to waive closing because I have to go to another bill hearing right away, so thank you. [LB644]

SENATOR LANGEMEIER: Today is the "Senator Mello Day." [LB644]

SENATOR MELLO: Yes. It's three bills right back to back. [LB644]

SENATOR LANGEMEIER: You bet. Thank you very much for your testimony. Those wishing to testify in support of LB644 please come forward. Don't be shy. Welcome to the committee. [LB644]

GARY LUND: (Exhibit 5) Thank you. Senator Langemeier, members of the committee, I'm Gary Lund, L-u-n-d, with the city of Norfolk. And it's nice to be back for our annual discussion on e-waste. Senator Mello calls this a producer responsibility. In my letter, which I'd like you to include in the record today, I call it a product stewardship concept. It's the same thing. It means that we consider how these are going to be disposed at the end of their life. We consider that first at the time of sale. It also means that the city of Norfolk and the communities of the coalition, the landfill coalition, are not going to be saddled with an improved method of disposing of e-waste. We stepped up to the bar about 15 years ago in response to LB1453 when Subtitle D was enacted in the state. We spent about \$9 million putting in a landfill. That's very valuable space and we would like to reserve that for trash that has no other options. We would like to end: e-waste has another market. We would like to see that go to another market rather than to the landfill. We do not believe this is a looming, toxic disaster as some would have you believe. Putting a small number of computers in a landfill is not a crisis, in my mind, and that's why we do not encourage a landfill ban. I understand there's been a discussion, there are manufacturers that would prefer to see a landfill ban. I hesitate to talk for all of the other 600 or 700 communities in the state. Everyone of them has some different little quirk in their disposal program, and I hesitate to say that every one of them will have a good alternative for disposing of e-waste. So I would prefer there not be a ban, but that is not a deal breaker for us. If you feel it necessary to put in the ban, we would not withdraw our support. But again, we think that the disposal of e-waste in a landfill is a viable option if there is nothing else available. We think this is a very good bill. We thought it was a good bill last year, and I hope you see the path to move it ahead. I definitely think this is setting minimum environmental standards. That certainly is your

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responsibility and the responsibility of local governments to set those environmental standards. Private business is not going to improve environmental standards for the communities and for the...for our children. They are looking at making a product, putting people to work, and providing revenue in their business. And that is what they should be doing, and government should be looking further on down the line for the environment. I think those are my comments. I thank you for your time. [LB644]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB644]

SENATOR HAAR: Thank you. What happens to the waste if you are able to recycle it, to e-waste? How can that be recycled? [LB644]

GARY LUND: E-waste is dismantled and sold for its components. Currently, we take e-waste at the transfer station in Norfolk, and I think all of the transfer stations in our coalition do take e-waste. We charge \$15 a ton for, or \$15 per computer. That discourages people from throwing away \$1,000 computer unfortunately. Mine is shipped to a product handling point in Omaha. And I don't know exactly what the end use is for that, but it's demanufactured, essentially, and used for its components. [LB644]

SENATOR HAAR: Thank you. [LB644]

SENATOR LANGEMEIER: Any other questions? Senator Carlson. [LB644]

SENATOR CARLSON: Senator Langemeier. So you charge \$15 a unit? [LB644]

GARY LUND: Right. [LB644]

SENATOR CARLSON: And what is a unit? [LB644]

GARY LUND: A unit is everything you can hook up to your computer. We'll charge \$10 just for the monitor because they're a little more difficult to get rid of. But if you want to give us the entire computer, printer, keyboard, and mouse, and CPU, we'll charge \$15 for that. And that's just right at what it costs us to dispose of it. [LB644]

SENATOR CARLSON: With that charge, has there been any problem in the area of Norfolk as far as just throwing them in the road ditch? [LB644]

GARY LUND: I have not seen a lot of that. [LB644]

SENATOR CARLSON: I guess it's not a problem then. [LB644]

GARY LUND: No. [LB644]

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SENATOR CARLSON: Okay. Thank you. [LB644]

GARY LUND: But I do hear a lot of reports of, well, there's still three of them in my basement or that I still have two of my old computers. And people, I think, want to do the right thing, they want to see it recycled, but they have a hard time coming up with that extra \$15. And that's why I like this, the product stewardship where you front fund that disposal. You don't have to come up with \$15 at the end if you take it back to that dealer. [LB644]

SENATOR CARLSON: And if you end up with four in your basement, then it's \$60. [LB644]

GARY LUND: It might still be \$60. Yeah. [LB644]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony, Mr. Lund. [LB644]

GARY LUND: Thank you. [LB644]

SENATOR LANGEMEIER: Other testimony in support of LB644? Welcome. [LB644]

CARRIE HAKENKAMP: Thank you, Senator Langemeier, members of the Natural Resources Committee. My name is Carrie Hakenkamp, it's spelled C-a-r-r-i-e H-a-k-e-n-k-a-m-p, and I'm the executive director of WasteCap Nebraska. We're a nonprofit organization that works with businesses and communities to develop waste reduction and recycling programs. I think this is my ninth time testifying for or against or neutral for e-waste. I was very involved in the last couple of years working with Senator Preister's office, running numbers, and trying to figure out costs and how much are we going to generate and how much money do we need. And I think that's where some of the fees had come from that you were asking about earlier. But thank you, again, for allowing me to speak today on behalf of businesses and the electronic asset management recycling programs in Nebraska. Since 2000, WasteCap has been educating businesses on the proper end of life management of electronic equipment through different workshops and collection events. In that time, we've presented 22 electronic and universal waste management presentations to businesses, and we've also cohosted 15 electronics recycling collections throughout the state, collecting over 200,000 pounds of equipment for recycling. Because the recycling fees in our collections were only partially covered by grant funds, our collection events brought in less pounds per capita at .4 pounds per capita on average than in other programs nationwide where the fees were more highly subsidized or recycling was offered for free. In some of those communities they collected up to 12 pounds per capita. I presented information that was gathered by a national organization last year at a national conference based on that information. So we're definitely way below the

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national on our collection events. Our experience had revealed about a cost of 50 cents per pound to host the electronics collection events, and that included the cost to the recycler as well as the cost of planning and promoting the events. And the cost per pound would be much less if we could increase our participation or offer free and subsidized recycling services. The fees that were originally designed with Senator Preister were based on that 50 cents per pound cost at an estimated 2.5 million pounds that would be generated annually by Nebraskans. From 2003 to 2008, the Nebraska Department of Environmental Quality has awarded 57 grants to 23 organizations for electronics-related recycling activities in Nebraska. The total dollar amount spent on these projects was \$1.95 million, nearly \$2 million. The Nebraska Environmental Trust has also provided nearly \$200,000 in grants in lieu of legislation that would otherwise provide electronics management funding. These monies could have been utilized for other resource conservation or recycling programs had legislation been in place previously. Our organization is currently conducting research to serve as a baseline of electronics recycling activity in Nebraska from 2003 to 2008. This information will eventually assist us in setting priorities for funding should the legislation pass, and it's also going to be utilized to develop a statewide product stewardship program with various retailers. The producer-responsibility model in the bill is being utilized in various forms across the country and also is the basis for the drafted federal model legislation. And it will effectively create funding mechanism to collect, transport, and recycle the 2.5 million pounds of electronics generated by Nebraskans that we're estimating. And that funding would also allow DEQ and the Environmental Trust to put their money towards other grants for recycling conservation and waste reduction. So I guess I have a red light. I'll stop at that. And if you have any questions, I'm happy to answer those for you. [LB644]

SENATOR LANGEMEIER: Very good job. Senator Haar. [LB644]

SENATOR HAAR: Yes, thank you. The question I asked before, how do you actually get rid of this? Where does this waste eventually go to, electronic waste? [LB644]

CARRIE HAKENKAMP: When we do a computer collection, we contract with a recycler, and there's also actually a couple of recyclers here that will probably testify that could answer better to that. But the equipment is then sent for demanufacturing and they take it apart piece-by-piece and they separate out all of the component parts. So they recycle the plastics. They recycle and recover different various metals. They separate out the circuitry. The circuit boards are all separated into complete component parts and sold off as scrap or even as usable product in some cases. [LB644]

SENATOR HAAR: Okay. [LB644]

SENATOR LANGEMEIER: Okay. Any other questions? Senator Carlson. [LB644]

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SENATOR CARLSON: Senator Langemeier. Do you know, Carrie, what...like the state that you said collected 12 pounds per capita... [LB644]

CARRIE HAKENKAMP: Um-hum. [LB644]

SENATOR CARLSON: ...what...were there any fees in that state? [LB644]

CARRIE HAKENKAMP: In that particular program there were not. [LB644]

SENATOR CARLSON: No fees. So... [LB644]

CARRIE HAKENKAMP: Uh-uh. There are programs that maybe have a fee of \$3 to \$5 that got about 6 pounds per capita. So it ranges anywhere from where we're at at .4 pounds per capita...and the difference on that, too, in Norfolk we've done free collections. That's the only place we've done if free because Nucor Steel subsidizes the cost for that. And we get 1.4 pounds per capita in Norfolk versus the .4 per capita in other communities where people have to pay. [LB644]

SENATOR CARLSON: And .4 as compared to 12 pounds is...12 pounds is 30 times more. [LB644]

CARRIE HAKENKAMP: Um-hum. [LB644]

SENATOR CARLSON: Which is really a big difference. [LB644]

CARRIE HAKENKAMP: It's very significant. [LB644]

SENATOR CARLSON: Thank you. [LB644]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none, thank you very much for your testimony. [LB644]

CARRIE HAKENKAMP: Okay. Thank you again. [LB644]

SENATOR LANGEMEIER: Further testimony in support of LB644? Welcome back. [LB644]

GARY KRUMLAND: Senator Langemeier, members of the committee, my name is Gary Krumland, K-r-u-m-l-a-n-d. I represent the League of Nebraska Municipalities in support of LB644. As you know, under state law cities and counties are responsible for all of the solid waste generated within their boundaries. And so solid waste recycling, it's very important to the cities. They've developed landfills. They've developed recycling programs. They've contracted with private contractors to deal with that, but it is an issue

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that they're all dealing with. And so we do appreciate the concept of LB644. It provides a system to handle the recycling of the electronic equipment which is becoming a major problem to get rid of to recycle. We like the idea that the bill provides that it's basically the users that end up paying it, not the taxpayers. And so for that reason we do support it. I will mention that it was brought up about a ban on landfills, and there are some bans in state laws. Some landfills take them, some don't. I guess we would be uncomfortable with a ban on electronic equipment in landfills until there is a system to deal with recycling in a relatively easy manner. Otherwise if there's no place for the equipment to go, they do end up in ditches or whatever. So that was one concern. Happy to answer any questions. [LB644]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Krumland? Seeing none, thank you very much for your testimony. Further testimony in support of LB644? Welcome to the committee. [LB644]

KEN WINSTON: (Exhibit 6) Thank you. Good afternoon, Chairman Langemeier and members of the Natural Resources Committee. My name is Ken Winston, last name is spelled W-i-n-s-t-o-n, and I'm appearing on behalf of the Nebraska Chapter of the Sierra Club in support of LB644. I missed most of Senator Mello's opening. I'm presuming he talked some about some of the substances that are contained in televisions and computer monitors. There's a number of toxic substances. I was looking for my file from the bill for last year and I couldn't find the list of all the substances, but I know that arsenic is one of them. And so there's a number of substances that we wouldn't want ingested or to get into our water supply or into our soil. So these are things that we want to keep out of...we don't want them discarded on roadsides for sure, and hopefully we can keep them out of our landfills for the reasons that Mr. Lund indicated. And a good recycling program can prevent that kind of thing from happening. One of the things, there's been a number of studies about recycling programs, and one of the things that, there's actually two things about recycling programs, and Ms. Hakenkamp alluded to it, one is they need to be accessible to people. If you just do it one time a year, you're not going to be very successful. And then secondly, I mean, if the day that it rolls around that's the day that you have to do something else or you happen to be out of town, it's not going to happen. And then secondly, if there's a fee that's associated with it, people are more likely to just go, oh, well, maybe I'll give that computer to my cousin or donate it to the church or what have you. And so it ends up getting put in the basement and nothing happens with it. So there, it ends up gathering dust and people forget about it. And after a while the Christmas ornaments get put on top of it and what have you. And so it just sits there. In the meantime it's a substance that...it contains all these toxic substances that if it isn't properly disposed of could result in pollution. And as I also indicate in my letter to the committee, we live in an age where we're constantly replacing electronic devices. I mean, the computer that we bought three to five years ago is totally hopelessly out of date. And, of course, Bill Gates helps us to make sure that it's out of date by constantly updating the software that we need to run on it. But we

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need to update these kinds of things, and the digital conversion that's been discussed so much is another thing. It's just the latest thing in the ongoing flow of change that we're going through in terms of electronics. So there's lots of electronic devices out there. There's lots of change. There's lots of things that are being stored in basements and garages. And hopefully they're being appropriately disposed of, and the best way to dispose of them would be to recycle them. So we are supporting LB644 because it sets up a mechanism to make that happen, and we believe that the best way is to have the people that create the device and profit from its creation to pay for the disposal. And one of the things that's appropriate about having the manufacturer be responsible is the manufacturer can also kind of determine the components that go into it, and they can reduce the number of things that would necessarily be...that would require disposal or that may be toxic. And they may be able to make it so that it's easier to be recycled if they know that there's going to be a fee charged and that they may have to pay that. And one of the things LB644 does set up a...does allow the manufacturers to set up their own programs for recycling, and thereby avoid the fees. So we're asking that LB644 be advanced, and I would be glad to respond to questions. [LB644]

SENATOR LANGEMEIER: Thank you very much. Are there any questions? I do have one. [LB644]

KEN WINSTON: Yes. [LB644]

SENATOR LANGEMEIER: Has the Nebraska Sierra Club or the Sierra Club on the national level ever participated in one of these recyclings with people or support of grants to that kind of thing or... [LB644]

KEN WINSTON: Sure. I don't have...I know that we typically support efforts to do those kinds of things. I couldn't point you to an exact event or what have you, but I'm sure that we've supported events of those kinds in the past. [LB644]

SENATOR LANGEMEIER: I was just curious. [LB644]

KEN WINSTON: So yeah. [LB644]

SENATOR LANGEMEIER: Senator Haar. [LB644]

SENATOR HAAR: I've seen programs on television about...on my television about how this kind of electronic recycling winds up in other countries where there are no safeguards or anything like that. Is there any attempt to say these have to be recycled in America or anything like that or do we...you know, we could just be putting our junk and shipping it somewhere else? [LB644]

KEN WINSTON: Yes. And last year Senator Preister talked quite a bit about that, and

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there were some photographs that he circulated showing little kids working on taking apart televisions and computer monitors in other countries, and the kinds of environmental justice, if you will, where you put your garbage off on somebody else that's less fortunate. And it was my understanding that that was part of the amendment that Senator Mello was offering today was to have some restrictions on where the devices could be sent to. I have not seen the language of the amendment. But when I discussed it with his office yesterday I thought there was some language that would provide some restrictions in that regard. So that was my understanding, was that there was supposed to be some language to restrict where these devices would be sent to try to address that issue. And I have not seen the language, so I'm not certain that it's there. But I thought there was going to be some language of that kind drafted. And we would certainly support that if that's the interest...if that's your interest or the interest of the committee. [LB644]

SENATOR LANGEMEIER: Are there any other questions? Senator Carlson. [LB644]

SENATOR CARLSON: Senator Langemeier. Mr. Winston, you always give pretty concise reports when you testify. I would, I guess, argue with you a little bit on one of your statements in here. The first statement in the second paragraph. Studies have shown that successful recycling programs must be both acceptable and low or no cost to the consumer. Can you give me an example of a no cost program? [LB644]

KEN WINSTON: Well, I think I understand what you mean. But the idea that there are costs that are borne throughout society. I mean, if...you know, the old idea there isn't a free lunch, somebody's paying for it. So I would certainly agree with that. But what...the point that I was trying to make, and if I didn't make it clearly enough, the idea that if I'm going to recycle my computer, I've got to pay Mr. Lund \$15, then I may just keep it in my basement because, you know, maybe, like I said, maybe I'll donate it to the church or someplace like that instead of someplace where I can...you know, somebody might need it somewhere as opposed to recycling it and getting it out of my hands. And particularly when people have several devices sitting there, when they've got a couple of old TVs and two or three old computers, and all of a sudden they've got a bunch of electronic stuff sitting in their basement. And then one day the basement floods and they've got to get rid of it or whatever. [LB644]

SENATOR CARLSON: Yeah. Well, you're agreeing with me. There is no free program, somebody is paying for it somehow. It still needs to be done. [LB644]

KEN WINSTON: Yes, yes. [LB644]

SENATOR CARLSON: We're both in agreement there. [LB644]

KEN WINSTON: We're on the same page, Senator. [LB644]

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SENATOR CARLSON: Okay. Thank you. [LB644]

KEN WINSTON: Yes, no doubt. [LB644]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for you testimony. [LB644]

KEN WINSTON: I missed the hearing on LB439. Could I offer my letter for the committee? [LB644]

SENATOR LANGEMEIER: (Exhibit 8) Yup. Very good. Further testimony in support of LB644? We do have one letter from Greg MacLean from the city of Lincoln in support of LB644. Further testimony in support? Okay. Welcome. She'll track you down if you don't give her that paper, so. [LB644]

JEREMEY McNEAL: Oh, I know. [LB644]

SENATOR LANGEMEIER: Welcome. [LB644]

JEREMY McNEAL: Good afternoon, Senators. My name is Jeremy McNeal, J-e-r-e-m-y M-c-N-e-a-l, and I work for a e-waste recycling company in Omaha, name is CP Recovery. And I'm here today to voice my support for this legislative bill. It's my belief that this bill will assist in creating the infrastructure that everybody has been talking about in recycling e-waste. Currently, there are several e-waste recycling companies in Nebraska, but mostly located in eastern Nebraska and there's several here today as well. So what we're looking at is expanding that outreach to recycle more across the state where there are limited or few options on an ongoing basis. And we believe that this bill will help increase that infrastructure, increase that access through grants, etcetera. And, I mean, that's basically it. Last year's testimony would be a good foundation if you have any questions on anything because everybody was here last year. We presented everything, and rather than keep continual repeating it, I would look forward to you reading that. Does anyone have any questions for me? [LB644]

SENATOR LANGEMEIER: Very good. Are there any questions? I do have one question. [LB644]

JEREMY McNEAL: By all means. [LB644]

SENATOR LANGEMEIER: You talk about you're a company that recycles and some of the questions that have been asked today... [LB644]

JEREMY McNEAL: Um-hum. [LB644]

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SENATOR LANGEMEIER: Do you physically recycle it, or are you just a gatherer of stuff and then you put it in boxes and container boxes and ship it somewhere? [LB644]

JEREMY McNEAL: I understand. Senator Haar had those questions. I was going to speak on that as well. We physically dismantle all electronics at our facility in Omaha. There are several other companies in Nebraska that do the same thing. We recycle and separate all the components for resale or for recycling. Some of it cannot be resold. Some of it actually you have to pay to recycle some of those components, like the glass tubes out of televisions. You have to pay to recycle those. That's where the costs come in. So when you do those collection events, sometimes it is good to have a fee to make people aware that there are costs in recycling it, that not everything you're going to be paid for, kind of like what you were discussing earlier, Mr. Carlson. So, yes, we physically dismantle everything. [LB644]

SENATOR LANGEMEIER: My next question is, in the world of recycling we always...we seem to as a society like bigger and better and we've gone from the big TVs down to these little flat TVs... [LB644]

JEREMY McNEAL: Um-hum. [LB644]

SENATOR LANGEMEIER: ...and a better, higher quality picture tube. In your world of recycling, is there more...as we had before I think we said mercury in some of them, arsenic in some, has that gotten better with the smaller, littler TVs that are being made versus the big old tubes? [LB644]

JEREMY McNEAL: Not to upset somebody because I'm bound to because everybody has pros and cons... [LB644]

SENATOR LANGEMEIER: That's why I asked the question. [LB644]

JEREMY McNEAL: (Laugh) No, I understand. Some people would say, yes, it's gotten better, others would say we simply replaced one chemical with a different one in making those newer, better televisions. So have you really improved things, if you know what I mean? If there was increases in mercury instead of lead, you know, what is give and take? There's always room for that improvement. In the world of recycling, with televisions now, we see very few of those LCD screens or the newer thinner ones. We do see them, they do get recycled, but we're still dealing with CRT tubes on a massive level. The televisions are still coming in, the old tube televisions, and that still has large amounts of lead in it. And I think we'll continue seeing that. [LB644]

SENATOR LANGEMEIER: Okay. Very good. Thank you. Are there any other questions? Seeing none, thank you very much for your testimony. [LB644]

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JEREMY McNEAL: Thank you. [LB644]

SENATOR LANGEMEIER: Further testimony in support of LB644? Don't be shy, Mary, come on up. Welcome back. [LB644]

MARY HARDING: Thank you, sir. Pleased to be back. My name is Mary Harding, M-a-r-y H-a-r-d-i-n-g. I'm here today representing the Nebraska League of Conservation Voters in support of LB644. I think there are two points that have not been made previously this afternoon that we would like to be sure to get made. And one is that your constituents want this service. We would cite free recycling promotion that Schaefer's electronics and appliances held in Lincoln last summer shortly after this bill last year met its final end. And they had anticipated a certain volume of materials coming in as a part of this promotion to get people to their store to buy more of the same, actually. By 10:30 in the morning they had to order another truck. The demand for the opportunity to have a place to put these things is that great. So this is something your constituents want. The other point that we think has not been made adequately yet today, although it's been touched on several times, is that product stewardship really is the wave of commercially and economically profitable commerce. And there are a number of very large, successful companies that are demonstrating this around the United States. Wal-Mart being one where now at the very front end of their process when they are contracting for trucks, for example, they're making specifications that enable them to get better mileage and fewer part replacements from those trucks. So it increases their bottom line because they have less maintenance and operating cost. Coors is another example of a forward-thinking company in terms of product management where they looked at the entire life cycle of all the materials that they need to use. And really in many accounts Coors is given credit for starting the aluminum recycling industry in the United States because they created that demand. They felt it would be quite a bit less expensive to recycle aluminum rather than to work with new aluminum. So there are a number of examples of how this can be very economically beneficial. We heard from Mr. McNeal about job development and job opportunities locally that are available from this activity. I guess in short, even a cat only has nine lives and I think this is about where we're at with this concept is probably the ninth session. So we would really encourage you to go back through some of the discussion previously, in previous years and move this forward as you did last year and take action on it. [LB644]

SENATOR LANGEMEIER: (Exhibits 9, 10) Very good. Are there any questions for Ms. Harding? Seeing none, thank you very much for your testimony. Very good. Is there any other testimony in support of LB644? Seeing none, is there testimony in opposition to LB644? I do have a number of letters here: Geoff Wurzel at TechNet Southwest, Valerie Rickman with Information Technology Industry Council, Ed Longanecker from TechAmerica have submitted three letters in opposition to LB644. Is there anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral

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capacity on LB644? Mr. Otto, welcome. [LB644]

JIM OTTO: Thank you. Senator Langemeier, members of the committee, my name is Jim Otto, O-t-t-o, registered lobbyist for the Nebraska Retail Federation appearing today on behalf of Nebraska Retail Federation, and also on behalf of the Nebraska Chamber of Commerce and Industry because Mr. Sedlacek is running back and forth and asked me to express the Chamber's position, too, as being neutral on LB644. I do want to testify in a neutral capacity because it is true that retailers support the product stewardship concept. Manufacturer responsibility that would encourage people, manufacturers to design green and think about how they're going to...if they're also responsible for getting rid of the product at the end life, it would maybe have something to do with how they design it when it's originally manufactured. I did want to point out, though, that one of the things that Senator Mello said is that this is uniform because most states, in fact every state except California, that is adopting or is considering electronic recycling is considering the producer-responsibility model. So that is uniform in that aspect, but there isn't one that is the same with all of the states. I mean, every one of them across the country that has enacted or is considering, everyone of them is somewhat different, different dates to comply with, different fees, different ways you...so to a national manufacturer...oh, excuse me, to a national retailer...well national manufacturer, it's still...that's the reason that they want a national solution, understanding your frustration the fact that the national solution doesn't occur as fast as it should, but it isn't uniform. Even though they all follow the same principle, all of them have different details. I do want to also state that many people might automatically assume that this gets it off the retailer's back. It doesn't really get it off the retailer's back because many retailers are also categorized as manufacturers by the definition of manufacturers in this bill. For example, Best Buy, if you ever buy anything at Best Buy with the brand name insignia, that's actually Best Buy's private label. And so any insignia product, they would have to register as a manufacturer and comply the way that manufacturers have to comply. So it's not like the retailers are just shifting it over to the manufacturers, they're also concerned about that too. There are a couple of concerns in the bill that we would love to visit with Senator Mello or whoever to try to get those resolved if, before it were advanced. One of them is that it refers to four-inch screens and nine-inch screens at different places, anything above four inches when measured diagonally or anything above nine inches, seems like that should be uniform. Obviously we would encourage the nine-inch category. And the other thing that Senator Carlson brought up and I think others have questioned the fees, these are the highest fees of anyone that I could find in the United States. So most of them are \$5,000 that we have a maximum of \$20,000, and those are the highest fees that I was able to find and would be a concern. With that, thank you. [LB644]

SENATOR LANGEMEIER: (Exhibits 11, 12) Very good. Are there any questions for Mr. Otto? Seeing none, thank you very much for your testimony. Further testimony in the neutral capacity? Is there anyone wishing to speak in a neutral capacity? We do have

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one letter from Richard, I apologize, Abramowitz with Waste Management Recycle Nebraska...Recycle American, excuse me, one letter in neutral capacity. Seeing no one else in a neutral capacity, Senator Mello has waived closing. That will conclude the hearing on LB644. We'd like to thank everybody that came to the hearing today. Thanks and have a great day. [LB644]

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Disposition of Bills:

LB439 - Held in committee.

LB644 - Held in committee.

Chairperson

Committee Clerk