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Revenue Committee  
February 10, 2010

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[LB704 LB774 LB1049 LB1080]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 10, 2010, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR1080, LB1049, LB704, and LB774. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Galen Hadley; LeRoy Loudon; Pete Pirsch; Dennis Utter; and Tom White. Senators absent: None.

SENATOR CORNETT: Good afternoon and welcome to the Revenue Committee. I am Senator Abbie Cornett from Bellevue. To my left is Vice Chair Senator Dierks from Ewing. Senator Greg Adams from York will be joining us. Senator Galen Hadley from Kearney; to my far right is Senator Pete Pirsch from Omaha; Senator Dennis Utter from Hastings. Senator LeRoy Loudon will be joining us from Ellsworth, and Senator Tom White from Omaha, who has to leave early today. Our research analysts are Steve Moore to my left and Bill Lock to my...or pardon me, Bill Lock to my left and Steve to my right. I got the right and left mixed there. Erma James is committee clerk. Pages today are Abbie Greene and Ryan Langle. Before we begin hearings today, I'd please ask everyone to turn your cell phones to either off or vibrate while in the hearing room. Sign-in sheets for testifiers are located on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, a sheet needs to be submitted for each bill. Please print and complete the form prior to coming up to testify, and when you come up to testify, please hand that form to the committee clerk. There are clipboards by the back of the room to sign in if you do not wish to testify but wish to indicate either your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door. The introducer or representative will present the bill followed by proponents, opponents, and neutral testimony. Only the introducer of a bill will be allowed the opportunity for closing remarks. As you begin your testimony, please state and spell your entire name for the record. If you have handouts, please bring ten copies of the handouts, and the pages will distribute those. If you do not have copies, we will make them for you. With that, we will begin the hearings today. Actually, we have a group of students today from Elkhorn. Okay, I just want to make sure. Oh, oh, we'd like to welcome you to the Revenue Committee. With that, we will begin the hearings on LB1080. Senator Dierks.

SENATOR DIERKS: Senator Cornett will be opening on LB1080.

SENATOR CORNETT: Good afternoon, Vice Chair Dierks and members of the Revenue Committee. I am Senator Abbie Cornett from Bellevue. I am here to introduce LB1080 to amend the Nebraska Advantage Act by adding a new project tier, Tier 7 to provide for a personal property tax exemption for qualified wind energy projects. Wind energy is an important natural resource in this state, and LB1080's intent is to help

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develop Nebraska's wind energy industry. A qualified business would be defined to mean any business engaged in the production of electricity by means of using one or more wind energy turbines to produce electricity for sale. Qualified property would constitute a separate class of personal property, and would be defined to include only (1) depreciable tangible personal property, and (2) one or more turbine-powered generators used to produce electricity from wind energy. Additionally, to be qualified property, such property must be used in connection with a Tier 7 project or projects and must be acquired by the taxpayer whether by lease or purchase after the date the application was filed. The acquired level of investment in qualified property is as yet undetermined which is why the bill requires an investment in qualified property of at least a million dollars. The taxpayer would have to annually file a separate exemption claim form approved by the Tax Commissioner for each project to obtain the exemption. That form would have to be filed on or before May 1st each year with the Tax Commissioner, and a copy of it would also have to be filed annually with the county assessor of each county in which applicant is requesting exemption. Committee, I introduced this on behalf of Senator Langemeier who is chair of Natural Resources, and I believe he will follow up testimony on this. What we did was basically draft a placeholder bill for wind energy, depending on what was going to be able to come out of his committee. With that, I will yield my time to Senator Langemeier. [LB1080]

SENATOR DIERKS: Thank you, Senator Cornett. Do you want to take questions or do you...questions for Senator Cornett? Senator White. [LB1080]

SENATOR WHITE: Senator Cornett, maybe Senator Langemeier would be more appropriate for this. How would this interact with public power if they decide to put up wind turbines and their obligations to pay sales tax or tax in lieu? [LB1080]

SENATOR CORNETT: That question I will defer to Senator Langemeier. He has been dealing with the wind energy issue for a lot longer than I have. [LB1080]

SENATOR WHITE: Fair enough. Thank you. [LB1080]

SENATOR DIERKS: Thank you, Senator. Senator Langemeier. [LB1080]

SENATOR LANGEMEIER: Vice Chairman Dierks and members of the Revenue Committee, I thank you for the opportunity to be here today. My name is Chris Langemeier, it's C-h-r-i-s, Langemeier is L-a-n-g-e-m-e-i-e-r. And I'd like to thank Chairman Cornett for introducing LB1080. As we have continued in the Natural Resources Committee since we started LR83 last June, we have been talking about how to open up our market for wind energy for the export market, not necessarily domesticated use within Nebraska. We think the C-BED model which I have the next bill up addresses how we can develop wind for the use in the domestic market with public power in Nebraska. But we've been working hard and saying, how can we develop it to

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take it outside of the state of Nebraska? So LB1080 as Senator Cornett gives you a lot of details, it's kind of a placeholder. I wouldn't spend a lot of time reading it nor am I going to ask you to advance it in any form. But in that discussion, as we start to define what a wind project is or what a project whether it's solar, and I will make a disclaimer today when I say wind project, I'm talking all renewables whether it's a solar, a methane digester of some major size or wind. We're talking about renewables. And as we go through that discussion, we're defining what export is. And so the question before us is, is how can we export a resource which is wind out of Nebraska, and how do Nebraskans benefit from it? So that brings us to a number of things. Number one, as you build wind towers in Nebraska, we have property tax on the tower. The ground and the tower gets taxed as typical real estate property as everyone's home is. The turbines are personal property, and we have...right now we default to a federal depreciation schedule to five to seven years for depreciation. So the discussion we've had is, is when we get on a five- to seven-year depreciation, does two things. Number one, it's quite capital intense for a developer which we don't know that we always want to have. And the second component is, is it really affects our school system because they get a big check of revenue for the first three years, and then it depreciates over the...if they take a five-year...that depreciates, gets pretty small in the last two years. So the question we've been having is, as we start to look at what's the benefit of wind energy in Nebraska? Two things. Can we help developers by changing how we just default to the federal level for a five- to seven-year depreciation on the personal property which is the turbine itself...turbine and blade value. How can we help the developers by spreading that out to a 15-year look, window or the life of the project, whichever is shorter. You know, I don't want a developer to come in and tell me that, oh, the life of this project is 40 years because that wouldn't be true. You know, at best, we get a 20-year warranty on turbines, and over time that's going to get better. So we want to limit that at 15 years. We're trying to come up with a method to try and get that personal property level down to an even pay over 15 years which helps our schools. It doesn't affect our state aid so dramatically, and so that's what we're trying to figure out how to deal with. The third component is, is more related to LB1080 and that's a production tax. As coal has a severance tax, we are in the process of looking at methodology behind, not necessarily a severance. It gets into some real issues, but a production tax on the production of energy in Nebraska. Now, we have to be very sensitive to that. As we look in dealing with water, I seem to learn a lot about closed class. The question is, and the things we have to work through and the staff for the Revenue Committee has been very helpful, and we appreciate all the help they've given us is, is how do we expand it where we can tax exported wind out of Nebraska but yet not tax public power's wind that they sell in surplus? It's easy to exempt them for wholesale and retail sales within the state of Nebraska from this type of excess tax, but we currently in Nebraska produce about 7,100 megawatts of energy whether that's through our coal, coal facilities, our wind facilities, our hydro facilities, but we only use about 5,400 megawatts of that in Nebraska. So we're already exporting a good share of energy, and Nebraskans benefit from that export because they're selling their surplus. They're using that to buy down

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your personal electric rates. Maybe not so if you're out in tri-state or WAPA's area, out in the western Panhandle. They'll be quick to tell you that their rates are quite a bit higher than we experience from Kearney...basically from Kearney east in Nebraska. We do see quite a bit of difference in price. So those are what we're working on is, is to try and come up with the methodology behind how can we put a production tax severance, whatever the end-up terminology is without affecting Nebraska Public Power and what they do when they sell their surplus because that's the last thing we want to do is add another tax to Nebraskans when we're looking to benefit from an export of an energy source out of Nebraska. So it's a fine line, and we appreciate the Revenue Committee and the Revenue staff that has been very helpful in discussion of that. So to answer, Senator White, your question...maybe I have. The key is, is designing this, and that's why we've been so careful about this is, is designing a methodology behind taxing just the exported energy and not classifying Nebraska Public Power surplus as export...energy for export. [LB1080]

SENATOR DIERKS: Thank you. Questions for Senator Langemeier? Senator Hadley. [LB1080]

SENATOR HADLEY: Senator Dierks. Senator Langemeier, I think that's a very important point because the last thing I want to do is that to end up with wind energy that somehow significantly raises the cost of energy to Nebraskans. I think we pride ourselves on low energy costs, great for economic development, great for the ag community, so I do have that concern that we don't raise rates at home because we're trying to sell to Iowa or Indiana or Illinois. [LB1080]

SENATOR LANGEMEIER: Senator Hadley, I agree. One of the focus behind this discussion we've had about wind for Nebraska is how do we make it a benefit to Nebraska? Through the C-BED model, we have 33 percent has to be Nebraska-driven revenues. Through an export window for energy, how do we make that benefit Nebraska, and if the rates of Nebraska's ratepayers have to go up, that's probably not a good thing. And so our focus has been to try and make it a true benefit. We're getting a benefit through property tax; we're getting a benefit through jobs--it creates jobs. One advantage to wind development, and we've learned so much over this time is, is the jobs that are needed for maintenance of wind farms are pretty local, so you're not seeing somebody living in Chicago, flying out to work on these things. They may not be living right under the tower, but they're living in communities close-by and they're high-paid, high-skilled jobs, and so as we look to that whole pot per se of benefits...now I want to...I see Senator White has a question. Before you get to that, one other thing I want to stress in this whole thing is, is Nebraska over time, and we have seen and I've learned...like I said, I've learned more about wind energy than I ever thought I'd want to know, but the development of turbines and blades has come so far so fast that it is aided Nebraska basically to be the seventh best state for wind to now the third or even the second. And as we have looked at it and to come up with a methodology for

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allowing this wind development, we are seeing people lining up to come to Nebraska. So I'm going to testify in opposition later today on incentives. I think Nebraska...the first step we have, and I've made this comment many times to my colleagues is, is we're...right now we have cattle in a pasture, and we want to move them to the other pasture. But there's not a fence...there's no gate in the fence. And incentives are like putting hay bales in the other pasture to try and draw them over, but we still don't have a gate. So what we're trying to do in LB1048 that we have in Natural Resource Committee is to put that gate in there. And at some point, we'll get that gate open this session, and then we'll watch them come over. And if this body chooses that they're not coming fast enough, next year, the next few years, you're going to see a lag time. By the time you start to apply to put wind in, you're not going to see the ground move for probably 18 to 24 months at best, so in time...I won't be here in two years...in time if this body decides that we need wind at even higher rate, that's when you start to look to incentivize. The reality is, is we have wind potential that is the true attraction. [LB1080]

SENATOR DIERKS: More questions? Senator White. [LB1080]

SENATOR WHITE: Thank you, Senator Langemeier for coming and I've got three of them, and I'd like to take them one at a time. Some of them are for fellow senators, but also for our audience. We were at a wind power summit in Omaha. Do you recall what the estimates of the dollar value on an annual basis of what we could export in wind power? [LB1080]

SENATOR LANGEMEIER: An exact dollar, I don't remember. They gave an example. NREL is a federally created entity based out of Denver, and the numbers are staggering and... [LB1080]

SENATOR WHITE: I've heard \$1 billion to \$2 billion a year in exports of electricity. [LB1080]

SENATOR LANGEMEIER: Easily. If you're looking at the turbines themselves, and don't hold me to the exact number because I guess it depends on what turbine you buy, but you're basically looking at about a million dollars per megawatt to build. And right now, I called the Southwest Power Pool Thursday of last week, there's seven gigawatts of wind in their cue to be built somewhere. That's a lot of wind. And so do the math. [LB1080]

SENATOR WHITE: A lot of jobs and a lot of energy exported. So what we're dealing with is probably the biggest economic...certainly the biggest one I've seen since I've been here...opportunity for the state. [LB1080]

SENATOR LANGEMEIER: Correct. [LB1080]

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SENATOR WHITE: Second thing then is right now, are there federal law limits on our ability to export that electricity? I loved your analogy of the cattle in the pasture, but right now isn't it true that some of the pools can block the receipt of our power? We don't even have a right to sell it there, and what can we do about that? [LB1080]

SENATOR LANGEMEIER: Yeah. We have an issue, and you and I have talked about that. We have an issue beyond Nebraska's control. Right now as we look to sell power into...it's much easier now that Nebraska Public Power has joined the Southwest Power Pool. You can sell it on the market; you can do PPAs within the Southwest Power Pool. We've had seven states' governors from eastern states say, hey, we're not going to buy your power, so don't even send it this way. We're not going to buy it. We have major hurdles on the federal level getting, as we have transmission reliabilities, and I don't know if Nebraska Public Power is going to testify, but they have an expert here sitting behind me. As we develop the Southwest Power Pool which is a transmission management company that's owned by their membership...Nebraska is now a member. It's pretty easy to sell power within that. But now to move it east into MISO or any of the other seven power pools as we go east, they don't have to buy our power, and so that is an issue. But that's a federal issue that needs to be addressed on the federal level. I've learned through this whole process is, as we open the door for Nebraska, too bad we're on the western end of the eastern grid, but on the federal level, we need someone with some vision, and I don't think it's the Department of Energy other than a federal mandate. You accomplish this in a couple of ways: a federal mandate for renewables or you do cap and trade, and I don't...I personally don't think those are the correct ways to get this done. I think there's abilities to go out there with some vision, and someone willing to learn about this, and start to create a new overlaying level of government other than FERC and NERC and all those that I could go through. But to have some vision to say, how are we for the future going to come up with a plan to get the MISOs, the Southwest Power Pools all to communicate on more than a regional level of reliability and transmission? [LB1080]

SENATOR WHITE: So just so we're clear and it's an area that's interesting...environmentalists and free marketers can agree on. One of the biggest impediments, the development of clean, renewable energy is old government regulations that break up the market and oppose free market transfer of energy. Is that...? [LB1080]

SENATOR LANGEMEIER: I would agree. It's a unique phenomenon and, yes, I've had this position now for years and we've been studying is, is Loup Power District is trying to recertify their hydro facility. It basically cost them \$44 million to build that facility the first time. Just to get through the renewal process--and that's not to upgrade anything else--they're going to have to spend \$44 million just to get through the regulatory stuff through FERC at the federal level. We redid a nuclear facility in Nebraska, and you know what's kind of funny is, is we're going to have spent just about as much getting

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through FERC and the regulatory process as it cost to build that originally. It's almost like they know what your original cost was, so they know what you're going to have to pay to renew. [LB1080]

SENATOR WHITE: Final question on this one, specifically, with regard to the generators as opposed to the towers and the rotors, would it be a fix that would be attractive if we legislatively defined the generators, the nodule and/or the rotors as a fixture that are treated as real property for purposes of the tax cut. [LB1080]

SENATOR LANGEMEIER: That has been part of our discussion. [LB1080]

SENATOR WHITE: Okay, so that's something you are looking at? [LB1080]

SENATOR LANGEMEIER: We are looking at that because we have...because it gets awful problematic, and that's...and Steve has been a great help as we've talked about. It gets awful problematic dealing with the depreciation schedule as we just defaulted to the federal depreciation. And so there's no real clear-cut way to do this, so we've...yeah, we've been trying to explore every option... [LB1080]

SENATOR WHITE: So we definitionally... [LB1080]

SENATOR LANGEMEIER: ...and we're going to continue. [LB1080]

SENATOR WHITE: ...if we definitionally said, a wind tower and all equipment attached to it for the purposes of generating electricity shall be treated as real property, do we have the mechanism in place to attract and support this industry do you think? I mean, would...that way, if it's in place, we wouldn't have to put another tier on the Advantage Act. [LB1080]

SENATOR LANGEMEIER: Yeah, right. This was strictly a placeholder to come up with that seventh tier. I have no intent to do this. [LB1080]

SENATOR WHITE: Okay. Thank you. [LB1080]

SENATOR LANGEMEIER: Matter of fact, my intent is to have this tax language within our wind bill which is LB1048. I just wanted to, in agreement with Senator Cornett was, my agreement was to make sure we kept you as a Revenue Committee in the loop that we weren't trying to do something within the body of the Revenue Committee without telling you. [LB1080]

SENATOR WHITE: Thank you for your courtesy, Senator. [LB1080]

SENATOR DIERKS: Senator Pirsch. [LB1080]

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SENATOR PIRSCH: Thank you, Senator Langemeier, for your bill here, and I agree with you, we are blessed with a lot of potential here in terms of our wind potential. You mentioned one of the possible...well, one--not possible, but one actually existing impediment to developing at least on an immediate basis which is you have to have a customer to sell it, and when some kind of...some...I mean is there...is it protectionism that's going on in other states where they agree you could be the low-cost provider, but we're still interested in developing it at a higher cost in our state? [LB1080]

SENATOR LANGEMEIER: Well, let's talk about the energy market in itself right now. As we all see, the economy has taken a downturn; manufacturing has slowed, and so the use of energy and on the...and you sell it on the M basis on the market, but the overall demand for energy is down. But as our economy starts to recover, as each and every one of us continues to get more apparatuses that take electricity, as we continue to see more demand for electric cars, use of energy is going to continue to rise. Some say it's even going to double by 2025, so this...I would say that the push for wind in Nebraska is not because you believe in global warming, not because of anything else. It's strictly to meet the demand of energy in the U.S. Secondly, with that is, is it will lower our demand for foreign-based uses. We're not saying that when we do wind energy in Nebraska that we're going to close the coal-fired facility, not going to happen. Our coal-fired facility at Sutherland, Nebraska, I'm told is, if not close to the cheapest running operation in the U.S., so we're not saying we're going to close that, but I think we can continue to develop a resource. So, now, is the market out there today due to the economy, due to a number of things? It's a challenging market. I will not argue that. But people that are going to put millions upon millions of dollars in this investment are going to have that market before they start. Now, the second part of your question, if I can remember what it was, as I brought up all the other stuff, you talked about impediments. Colorado, the state of Colorado has adopted a policy that says that so much of your energy has to be from a renewable source like wind. And so, let's say you have a business in Colorado that to meet that percent, you have to have four megawatts of wind power as part of your source. They give a preferential treatment to Colorado wind, and what they say is, is Colorado wind is worth 25 percent more than anybody else's wind. So to think you're going into the western grid and push wind energy into Colorado is a little problematic right now because if you need four megawatts for your business, if you buy it in the state of Colorado, you really only need three. And on paper, they give you the fourth one free, so you do see some of that out there. And...but I think as developers look at Nebraska and look at the consistency, the higher level of consistency in our production, we're going to win the day at the end. [LB1080]

SENATOR PIRSCH: Great. And then the only other question I wanted to put to you today is how does the transmission fit into all of this? From what I understand, given the amounts of electricity that will be generated from these turbines, the...you may...it may



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cost upwards of \$10 million per mile of transmission line just to install. Is that...so how does this fit into your scheme? [LB1080]

SENATOR LANGEMEIER: Yeah, it's actually about a million...a million to 1.2 million a mile for transmission. [LB1080]

SENATOR PIRSCH: But isn't, though, that...we're talking about interstate, that's current intrastate, but isn't it with interstate? I thought... [LB1080]

SENATOR LANGEMEIER: Wherever you're going, about a million bucks a mile. A 760-line might cost you \$2 million. But in our process through LB1048, and you're all getting a one-up before everyone else here, but in our process, the developers that are developing this type of a resource are aware that they are going to be involved in the building and the paying for transmission. This isn't a surprise to them. To do this on any sizeable level, they know this takes bucks, and they know there's hurdles to get across, and they have experience at doing that. And so now with that said, does that not mean that if someone is building a thousand megawatts in western Nebraska, that Nebraska Public Power doesn't see a benefit to upgrading one of their lines to work with them. That doesn't mean Nebraska Public Power, and when I say Nebraska Public Power, should just say Public Power no matter where you are, whether you're in OPPD, LES, or Nebraska's area, that doesn't mean that they won't have to step forward and say, hey, while you're going by, we're going to upgrade our lines so we'll cost-share with you on some of this. That will be left up to the developers and Public Power to have that entire discussion of what they might need for upgrades because Nebraska Public Power will quickly admit that we have an excellent structure, but some of our own lines need a little updating. And so if they can pony that onto another project and share some costs, they're going to do that, but primarily, it's going to be the developers' cost to build transmission. [LB1080]

SENATOR PIRSCH: Thank you. [LB1080]

SENATOR DIERKS: Other questions for Senator Langemeier? Guess not. Thanks, Chris. [LB1080]

SENATOR LANGEMEIER: Thanks. [LB1080]

SENATOR DIERKS: Other proponents for LB1080? [LB1080]

RICH LOMBARDI: Good afternoon, members of the committee. My name is Rich Lombardi. I'm the registered lobbyist for the American Wind Energy Association which is a national trade association of not only wind developers...actually, public power and utilities are members as well as all the various parts manufactured. There's over 8,000 parts that make up a wind turbine, and last year America became the number one

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producer of wind energy in the world. And on Nebraska's level, last year with the Elkhorn Ridge coming on, we doubled the amount of wind capacity in the state of Nebraska, and with power purchase agreements for the next couple of years, you'll see another doubling. Last fall, Nebraska started...the Community Technical College in northeast Nebraska started training wind technicians and we're hoping by next fall Western Nebraska Community College. So we're doing a lot of things at the same time, and this Legislature really has been with the work that you did last year, really has sent a very strong message to the wind energy industry that we're open for business in the work and heavy lifting that's being done by natural resources, and all the folks associated there. I just wanted to come and testify and appreciate the chairman having this particular bill and trying to wrestle with this issue of trying to develop a win-win type of an approach. And I think Senator White's idea on the real property versus the personal property might be a way to navigate this issue. From the wind developer standpoint, with the depreciation schedule the way it is, for them putting together projects, it's a front-end capital cost. For the local communities, it's five years and out of a cash flow, so we're trying to see how we might be able to develop a win-win here, and I think that suggestion may be a direction to go and, thankfully, the senator who had this bill as a placeholder so that we could deliberate on this matter and at least have a vehicle because, obviously, the work that's being done on the eminent domain front for export over in Natural Resources is real key to private finance in the state of Nebraska. We had very good news. I think that one of the real advantages as we develop wind in this state is, hopefully, the attraction of manufacturing facilities. Tomorrow at the student union, the Department of Economic Development is holding a five-hour seminar on what's known as supply chain--wind supply chain briefings where they're basically going to show all the various opportunities that are available. And what's happening is that we're having European and Asian companies actually closing down manufacturing to move it. It's kind of reversed, what we've been seeing over the last couple of days...actually moving manufacturing here, and Nebraska got real good news that there's, hopefully, going to be another 200 folks employed in Grand Island with a group called TPI Composites as part of the stimulus bill. That is very exciting because that's a blade manufacturing facility for General Electric and their...as Senator Langemeier was saying, that's a 2.3 megawatt huge, huge turbine facility, but that's really the cutting edge of blade manufacturing, and Nebraska is attracting that business because of our central location. So it's a pretty exciting time to be in this. You have several other pieces of legislation today that we are supportive generally, and I just wanted to take this opportunity to thank you for all your good work and support on this and, hopefully, we're looking forward to some legislation further in the session that we can move the ball forward, so thank you all very much. [LB1080]

SENATOR DIERKS: Thank you, Rich. Questions for Mr. Lombardi? Senator White. [LB1080]

SENATOR WHITE: Thank you, Rich, for coming. And one of the things, and perhaps

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this is more for Chris, the manufacturing facility that drives the specifications for everything else is the nodule, the generator. I mean, they determine the specs for the towers and for the rotors, and that becomes really important. Valmont started building towers, but they never got a compatible nodule that had market presence for their tower, got out of it. And I think now it's...a lot of those guys have relocated to Blair, and they're making towers there. If we're really going to be a center, and we really want to dominate this industry, the keystone is going to be the development and manufacturing of those nodules. What are we doing to make sure that that critical element of the puzzle has a strong industrial base in the state? [LB1080]

RICH LOMBARDI: That's...you bring up a really, really good point, and I know that with the American Wind Energy Association, we have a number of conferences. We have what I call the Woodstock of wind. We had it in Chicago where over 20,000-25,000 people come...we're going to have it in Texas, and it's every manufacturer in the world, every parts component manufacturer in the world, they gather at those, and then we have these supply chain conferences, and NPPD and OPPD actually had big booth space there to talk to those folks with the fact that we are centrally located in...I don't think people have really appreciated that this is not...it's not like we're nationally significant. This is a world-class resource we have in Nebraska. This is world-class. There's some folks in the audience that are working on a project in Banner County, might be one of four or five mega sites of wind in the world out in western Nebraska. So I think public power has been doing...reaching out through their networks. We have certainly had a...if, you know, my e-mail is any indication, a real variety of companies looking at Nebraska and actually because of what you did last year, looking at it again. You know, on Monday, I got a call from Laurie Lage to say, listen, we need some developers to come in on Thursday to react to some of the work the committee has done, so, you know, 48 hours notice, and all of a sudden the fourth largest utility in the world flew somebody in here. I don't think they would have done that a year ago. In fact, I got bad-mouthed about Nebraska when I first took this job. That's not happening now because of a lot of action. I mean, all energy is politics. You know, you can take nuclear coal--it's all politics. So when you take good political actions really makes a difference here. And I think last year we did that, and I'm really anticipating we're going to do it again this year. But you're really right on the money that the nodules and trying to attract those components and those...the whole idea is that where is most of the wind going to be developed? It's going to be developed in the Great Plains. You know, transportation costs are a big part of the costs, and if you can cut that down, that's a big savings, and some of the people I've been working with are great warehouses that are located...trucking companies because usually by the time you get to the site, you've got to have a trucking company, so my teamsters love it, you know. Your teamsters love it, too, so but... [LB1080]

SENATOR WHITE: Yeah. What we're talking about and what the advantage is are rotor...a big rotor at the hundred-meter level that we're talking about moving to. A tower

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can't be moved. I mean, Union Pacific is building specialized cars to try to move these, and the cost per mile is phenomenal. Okay, so those...if we're the world-class center, those are going to have to by (inaudible) economics be located here. But what would be very nice for the economy, if we can leverage that in some way or you guys can work on some way that the engineering design of the nodules, the engineering design of the rotors, the actual winding of the generators, which we were down to one generator winding facility in the country which was in Omaha. It was still an IBEW plant, and they just did big specialized ones. If we can bring that back because the wind is here, because everything else is here, it is a once-in-a-generation opportunity... [LB1080]

RICH LOMBARDI: It really is. It really is...that's what's so exciting about it. In July, the University of Nebraska had an international conference on wind where they brought the top scientists from all over the world into Lincoln, Nebraska, for three days and dealt with everything from batteries to designs, nodule designs, and that we were doing that here. I mean, it's quite a resource, and I think we're really developing the talented work force...that's really important, and I think we're really, you know, community colleges are adjusting really quickly and are really aggressive in this area. So I think that we're going to take care of the human capital side, but yeah, we're...I think we're a few shots away from laying in another major manufacturer. [LB1080]

SENATOR WHITE: Well, I can't tell you how much I appreciate you and Senator Langemeier, especially as leadership, "Cap" Dierks, but if we can capture that last part, the intellectual design and manufacturing that nodule, then you've got..you know, you've run the full table. [LB1080]

RICH LOMBARDI: Yeah. [LB1080]

SENATOR WHITE: Thank you. [LB1080]

SENATOR DIERKS: Other questions for Rich? Think not. Thanks, Rich. [LB1080]

RICH LOMBARDI: Thank you. [LB1080]

SENATOR DIERKS: Next proponent, please? Are there any other proponents for LB1080? Is there opposition for LB1080? Anyone in opposition? Is there anyone testifying neutral on LB1080? Whenever you're ready. [LB1080]

JOHN HANSEN: Vice Chairman Dierks, members of the committee, for the record, my name is John K. Hansen, J-o-h-n Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union. I'm also a co-chair of the Nebraska Wind Working Group, and I am passionately neutral on this placeholder bill, but it did give me the opportunity to visit with you about something that I think that would be very helpful to wind energy development. And as we are a new kid on the block getting our feet wet, trying to figure

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out how all of this works, you look to those dates that have been around a little bit longer, and you look at how they address some of the development issues relative to wind. There are several different approaches that I think bear further investigation in the area of how they treat personal property from a developer's perspective. You're incurring costs at a point in the process when you're least able to afford them because you've got all your capital construction and your up-front costs in the project. And so from the local governmental subdivision perspective, you're doing some things to...that it makes it very difficult as a local governmental entity to be able to utilize that money in a cost-effective way without having it cost you other kinds of money relative to state distribution formulas from education to other things. And so Oregon, for example, has taken approach where they allow local governmental subdivisions to hold those dollars, take them all in, separate them out from any distribution formulas, and then distribute them over a 20-year period. So you're able to take that revenue and part it out and hold it separate from any kind of adverse impact over a 20-year period, so that you're treating it in a way similar to the...as you would if you treated it as real property. So in the absence of state guidance, the federal treatment rules, and so for a long time for multiple years going back, we have kind of identified this as someday we need to try to think through this. So I thank the committee and also thank Senator Langemeier and his committee that this topic, I think, bears further investigation, and I think it would be good for both wind development and also a much more reliable way and beneficial way for local folks to be able to utilize those dollars in a constructive kind of way. The five and out isn't really good for either party in this particular case because of that treatment. And so with that, I would close and be glad to answer any other questions if you have any. [LB1080]

SENATOR DIERKS: Thanks, John. Questions for Mr. Hansen? I guess not. Thanks so much for coming. [LB1080]

JOHN HANSEN: Thank you. [LB1080]

SENATOR DIERKS: Anyone else in the neutral position? [LB1080]

KEN WINSTON: Good afternoon, Senator Dierks and members of the Revenue Committee. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska chapter of the Sierra Club. I'm in a neutral position on LB1080. I guess kind of similar to what John Hansen indicated, the Sierra Club is a long-time supporter of renewable energy development, and we've consistently supported incentives for renewable energy development. The reason we're neutral is because of the fact that we don't know exactly what direction this bill is intended to go and rather than giving support to something when we don't know the direction, I guess I wanted to come in, and this is sort of positive-neutral testimony and say we like the idea of supporting wind development. But...and if things get flushed out in a way that we...that's consistent with our goals, then we would support that legislation. I guess one of the things that I wanted

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to say is we...in general, we support a tax structure that makes sense for local government and also makes sense for the state with regard to wind facilities. And I guess the final thing that I wanted to say is that the Sierra Club has been working with the Natural Resources Committee related to the legislation that the Natural Resources Committee is working on, and I just wanted to, once again, express as other people have our appreciation for the work that Senator Langemeier is doing and the committee is doing in that area. [LB1080]

SENATOR DIERKS: Thanks, Ken. Any questions? Senator White, please. [LB1080]

SENATOR WHITE: Thank you, Ken, for coming. I appreciate the Sierra Club's support. One of the friction points between wind energy and the environmentalists movement has been citing of wind farms effect on aviary...birds, other kind of migratory... [LB1080]

KEN WINSTON: Certainly. [LB1080]

SENATOR WHITE: And we're in a...probably the central flyway in the United States, I think, for the cranes--sandhill cranes, the last great migration of a major bird. Have you been getting good cooperation in making progress on general principles so that we can cite these places appropriately and not run...I'm sorry for the pun...afoul of the federal Migratory Bird Act and also the Endangered Species Act and our own concerns on a statewide level with the environment? [LB1080]

KEN WINSTON: Well, I guess the best way of addressing that would be to say that we're continuing to work with the committee on that issue, and we do appreciate the opportunity to work with the committee on that issue. I won't say that we've resolved all of the issues, but we certainly appreciate the opportunity to work with the committee, and I'm optimistic that we can resolve those issues by continuing to work with the committee in addressing those issues. And those are, as you indicated, those are important issues. We are in the central flyway for thousands and hundreds of thousands of birds that migrate right down the middle of the United States, and many of them stop in central Nebraska, and that is in addition to being important environmentally, it's also important for the economy of a lot of those communities. So we...we're continuing to work on that issue. As a matter of fact, I have a call this afternoon to work on that issue with some people that are involved in that and, hopefully, we can get that resolved. [LB1080]

SENATOR WHITE: I want it on the record that people understand how critical this is. The last thing Nebraska needs is the reputation that we're developing wind power, but then we have litigation that shut them down. I think it's Indiana...migratory bats are...there's right now a major lawsuit to shut down a wind farm over location that's having an adverse impact on bats that are endangered species. [LB1080]

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KEN WINSTON: Certainly. [LB1080]

SENATOR WHITE: So if we can get good rules now, we can make them workable from the business side. They can understand them; they're not expensive to comply with, and once they're there, they can rely that their project is going to be left alone. From both sides, it's very important the environmentalists work in a progressive way towards getting this done but also the business community recognizes those rules are going to protect their investments. [LB1080]

KEN WINSTON: You said it better than I could have, Senator... [LB1080]

SENATOR WHITE: Yeah. [LB1080]

KEN WINSTON: ...so...but exactly. I mean, the idea is to have some common sense rules that every...so everybody knows what the rules are; there's a level playing field, and I guess most of what we're asking for is not something new, not requiring additional hoops, but just spelling out the hoops that are part of the good practices that responsible developers and...that our public power districts are currently expecting from development of wind energy. And I guess just the final thing is, we want to see wind development done in the state of Nebraska, but we want to make sure it's done right. [LB1080]

SENATOR WHITE: Thank you. [LB1080]

KEN WINSTON: Thank you. [LB1080]

SENATOR DIERKS: Other questions for Ken? Guess not, thanks for coming. [LB1080]

KEN WINSTON: Thank you. [LB1080]

SENATOR DIERKS: Other neutral testimony? Is there any more neutral testimony? Well, that will close the hearing on LB1080. Senator Cornett won't be here to close. We'll open now with Senator Langemeier and LB1049. [LB1080]

SENATOR LANGEMEIER: Vice Chairman Dierks, my name is Chris Langemeier, C-h-r-i-s L-a-n-g-e-m-e-i-e-r. I'm here to open on LB1049. Now we're going to switch gears in wind, and you're all learning what I've experienced for the last 11 months 20 hours a day every day of the week as we talk about the future of wind. LB1049 follows on the footsteps of what Senator Dierks has done in the development of the word C-BED to Nebraska, and John Hansen has been a part of that; Senator Preister was a part of that. As when they brought this C-BED to us three years ago, I heard that terminology, and it took me about six weeks to figure out what C-BED even stood for as we had the discussion. But one of the key focuses that was a founding principle behind

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C-BED, and these are for smaller wind projects that are designed to be hooked to the grid system as it stands for use for power in Nebraska. So we've gone from the big down to what I'm going to call the little or the middle, depending on what size it is. One of the core beliefs behind C-BED was is it was based on giving sales tax exemption to parts purchased for a wind farm. And to get that sales tax exemption, you had to have Nebraska buy-in, and that was by requiring that 30 percent...excuse me, 33 percent of the project's revenue, gross revenue, was paid to Nebraskans. So if a third of the project was owned by Nebraskans, you'd give them sales tax exemption, encourage Nebraskans to participate whether it's local farmers that own the land, whether it's other individuals. It was hopefully designed, I think, for more farmers to be involved, and so anyway, over the discussion of that 33 percent, we started to look at it and we've created LB1049, and I'll be the first to say, I fully expect LB1049 to not go forward but not yet die before I leave and, hence, the red cover to my book here today (laughter). LB1049 expands what 33 percent...the definition of the 33 percent of Nebraska ownership is trying to say, let's further incentivize sales tax exemption for a wind project that fits under C-BED, that at least 33 percent of the investment...so we're switching from the proceeds of the project 33 percent to the investment is generated by Nebraska businesses. So as you know from the earlier testimony, we have Katana Summit who is building wind towers in Columbus. We're getting a new company to Grand Island to build wind blades. We're hopefully going to get a manufacturer of the nodules or turbines, depending on how you want to call it, the heads if you will, to Nebraska. We also have a number of individuals that are going to testify behind us that are development, site design, survey, local crane operating crews. We have a crane operator in Omaha, Nebraska, that started with one crane to help fix a wind turbine and now they have a high number of cranes that they use for maintenance and repair on turbines across the country based in Omaha, Nebraska. So the idea behind LB1049 is to look at the C-BED model and say, do we want to expand it? And I know I have a fiscal note of \$2.2 million. I was very conscious we'd get a fiscal note on this bill, but the question is, is do we expand it from 33 percent of the gross proceeds to 33 percent of the investment? So if you bought your towers in Nebraska; you buy your turbines in Nebraska. You use Nebraska crane operators, crane companies...we're not talking labor in this bill; we're just talking about specialties. You use local Nebraska survey crews. You use local Nebraska engineering, and I'm going to...and I shouldn't do this, but I'm going to say like HDR, and I'm not endorsing them. But I know they are very involved in this type of development...if they use their Nebraska facilities for those kinds of things. We have contractors in Omaha, Nebraska, that are very capable of building some great structures, but we have...in the wind market, we have a tendency to go with proven known construction companies. So it's very tough for a local-based company out of Nebraska to get too involved. And so this would be a way to maybe open the door for a developer to say, you know, we'll use your local construction company from somewhere in Nebraska because we want to fall within C-BED. We want to build a project that benefits Nebraska Public Power. We want to use local people because you know the climate, the issues that fall within a county. This would allow us to take a look



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and say, should some of that qualify in the 33 percent Nebraska owned? Maybe it's higher...maybe it's 50 percent for investment versus revenue or something like that. But anyway, I bring it today for the discussion. We wanted to see what we got for a fiscal note, and we want to start thinking as we focus in our previous life this morning on wind for export as we continue to look to smaller projects that are more regionally based throughout the state that might fit in the grid system in a particular spot to provide energy for a particular community. Maybe we need to look at developing Nebraska resources. So with that, I would take any questions if there are any. Otherwise, there are a number of testifiers, and I am going to waive closing because I have to get back and...I've got water going in the other room, so. [LB1049]

SENATOR DIERKS: Senator Utter, please. Do you have a question, Senator? [LB1049]

SENATOR UTTER: Thank you, Senator Dierks. Senator Langemeier, I really don't have a question except just to commend you for the work that you've done on this, and the distance that we seem to have traveled in the last year or so. And I think it's been very helpful that you've spent the hours that you have to become an expert in this area, and I respect you for that. [LB1049]

SENATOR LANGEMEIER: I appreciate the compliment, but I want to...I do want to make it very clear that in my role in this, is a facilitator to get things done. I have to thank Nebraska Public Power, OPPD, LES, the rural electrics, the developers...one you're going to hear behind me. As Rich said earlier, we had our first wind meeting, and we got the second largest wind developer in the U.S...or excuse me, fourth largest in the U.S., second largest in the world flew to Nebraska because we're talking about this issue. And we couldn't do it without their expertise because I've learned more than I have the right to know about wind, but I do not know the nuts and bolts and the fine things that the public power has brought, the developers have brought, and all those entities. And it's just been...it's been unique to bring them all together and have the discussion. [LB1049]

SENATOR DIERKS: Senator Hadley, please. [LB1049]

SENATOR HADLEY: Senator, thank you. Senator Langemeier, thank you for all the work you've done on this and the work that all the people have done. I think it's very important. Question, I guess just in general on this type of bill. We always see the impact on the state level on the fiscal note, and we have a bill coming before us later, I think, the Revenue Committee, from Sidney, Nebraska, that is very concerned about the impact this has on the local governmental subdivisions because if we take state sales tax, we also take local sales tax. How would you respond to that concern? [LB1049]

SENATOR LANGEMEIER: Well, any time we look at an incentive in Nebraska...let me diverge from that for just a second. Senator White talked about bringing more

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development in. The current 775 and now 312 and then the high-end tier that we added last year in the Nebraska Advantage Act, as I sat on this committee, we have great incentives to help us with that development. And now that we're talking about wind, people are actually looking at us and looking at our incentives, so it just crossed my mind to think about that. Now, as we continue to talk about this kind of a sales tax, we have to start looking at, yes, it's got a \$2.2 million fiscal note, but in Sidney, Nebraska, is a very high likelihood that wind development will happen in that area of the state, maybe not so much in the C-BED model, but in the big wind model, as the wind is consistent there, the property tax increase of a wind farm I would trade for my sales tax any day. And so you have to make sure that we look at that. When we look at a fiscal note, this fiscal note only affects what happens to our General Fund budget. We have to very...be cognizant that the fact is, is if we add property tax to a particular county because of a wind turbine, that doesn't show up in our fiscal note because that doesn't affect us. So we have to use good, sound judgment as we start to look at any incentive to make sure the incentive isn't there. I got asked earlier in my legislative career to be a part of a group that was trying to get a company into Nebraska, and as I did the math, it would be a hundred years before we ever got our money back from the economic development that they were proposing to bring compared to the incentives they wanted. And I said, well, welcome to another state. It's got to be an economic driver to us whether it's jobs, property tax. So you got to make sure you look at the big picture. It's awful easy to say, ooh, ooh, we're going to lose some sales tax, but as you start to look at the big picture of how it works, pretty important. [LB1049]

SENATOR HADLEY: Just one quick follow-up. I guess, Senator Langemeier, I entirely agree, and it's...the fiscal notes serve a purpose, and I think that they're important, but at times, it's too bad we don't have a cost-benefit analysis to see the entire cost of a project and the benefits that...you know, it's very likely that the benefits of a project like this might be \$5 million a year in tax revenues that the state and local areas, but we don't see that when we look at it just in a fiscal note. [LB1049]

SENATOR LANGEMEIER: Right. And you and I got a crash course in fiscal notes over the summer or in the last session, so. [LB1049]

SENATOR HADLEY: That's right, yep. [LB1049]

SENATOR DIERKS: Other questions for Chris? Thanks, Chris. [LB1049]

SENATOR LANGEMEIER: Thank you. [LB1049]

SENATOR DIERKS: Other proponents for LB1049? [LB1049]

DAVID LEVY: Good afternoon. Vice Chairman Dierks, members of the committee, thank you for this opportunity. My name is David Levy. I'm an attorney with Baird Holm

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law firm in Omaha. Before you today, on behalf of a client, Boyd Jones Construction, I also represent Midwest Wind Energy who is the developer of the...so far, only commercial grade wind farm developed in Nebraska as well as other wind developers and other companies who are interested in the manufacturing and services side of this. Again, I want to thank you for this opportunity to testify and really thank you for your interest in this topic. It's been very interesting and heartening to sit and listen to the testimony so far today on LB1080 and now this bill. Also want to thank Senator Langemeier...I think he's left, but for introducing this bill and for his tremendous work and leadership on this subject. I am a member of the LR83 drafting committee and have spent many, many, many hours representing the development interests and meeting with public power and others interested in this to try and come up with a bill that will support export of wind energy. Here today, again, to talk about...and I'm sorry, I did not spell my name, D-a-v-i-d L-e-v-y, here today to talk about LB1049, also happy to answer any questions you might have further about wind development. As I said, I think the questions so far have been excellent. I was going to talk a little bit about how LB1049 would work, but I think Senator Langemeier did an excellent job of that, and I don't want to take your time to repeat that but, again, I'm happy to address any questions. I believe you've received some letters in support of this bill. I know that you've received one from Lamphear Erickson which is an engineering firm in Omaha which is very interested in getting into the wind industry...so interested, in fact, that they've opened an office in...on the front range of Colorado to try and take advantage of the growing industries and renewable energy. Katana Summit supports this, another wind developer client of mine, Invenergy supports this. Midwest Wind Energy, I mentioned, UV, TPI is the blade manufacturing firm that has been mentioned...they're also a supporter and many others. So there's a great deal of support for what we're calling the Nebraska Renewable Jobs Amendment because that really is the purpose of this amendment is to take this existing benefit that's already there through C-BED and that sales tax benefit, and extend it so that the result of it rather than Nebraskans investing in these projects and taking a return over time is that the developers have an incentive to work with and use Nebraska companies and use products manufactured in Nebraska for their wind projects. So the goal is to expand...you've all heard, I'm sure, of the multiplier effect that people talk about in economics. There is a great direct benefit of wind energy development. There are jobs created in the construction side, a few jobs--high paying, high skilled jobs created for operations. But then if you expand that so that it benefits the manufacturing sectors and the engineering sectors, and everything else, you really expand and multiply those economic benefits. And you make them very permanent to Nebraska as well. You incentivize manufacturers to locate in Nebraska, and they might make other things, and they'll hire people, and they'll spend money at restaurants in the towns where they're located and so forth. I want to take a minute to address the fiscal note. And, Senator Hadley, I listened intently to your discussion with Senator Langemeier, and I think you made some excellent points. This fiscal note, to me, is a little bit disappointing because...and with all due respect to the fiscal office, they do great work, and they're faced with incredible workloads especially

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at this time of year. But this fiscal note focuses only on the revenue that would be foregone; it doesn't in any way incorporate the benefits that would come back to the state other...even sales tax. You know, a new manufacturing company locates in Columbus to serve the wind industry, and they're helped by this benefit that encourages my developer clients to buy from them. They're going to go to the restaurants and shop at the stores and generate sales tax and generate other types of taxes that will benefit the state as well. So as you said very well, the fiscal note is not a cost-benefit analysis, it's a very narrow look at one aspect of this. Senator Langemeier referred to it as a \$2.2 million fiscal note. The number...I'm not sure exactly what he was referring to, but the number for fiscal year 2010 and 2011 is only \$1.2 million. And I want to address that also. The assumption, I believe, in that is that if this bill were to pass, wind energy projects would come to Nebraska next year that would otherwise not be a C-BED project and would develop and would gain that sales tax benefit, and that tax would be lost to the state. As I said before, and as you know, the C-BED law and the sales tax benefit is already available under existing law. We're not adding a new benefit or a new sales tax loophole. We're trying to add a different way to get at it that we think really can benefit Nebraska. Two of the three wind projects in Nebraska that are sort of going right now or about to begin are already going to be C-BED projects under existing law. They're already going to be C-BED projects. The third one is not going to be a C-BED project regardless of this legislation, so, in fact, as far as I know in 2010, 2011, whether this bill passes or not will not result in a new C-BED project that would not otherwise have been there. Now on the one hand, when I say that, I think, boy, that sounds like this bill doesn't do what we want it to do which is to incentivize wind developers. What we really want this bill to do, though, and the real purpose of this bill is that when those wind developers come here, that results in job creation and business growth in Nebraska. With that, I'd be happy to address any questions you have on LB1049 or if you have questions generally on wind development as you've discussed so far during the hearing...happy to address those as well. [LB1049]

SENATOR DIERKS: Thanks, David. Questions for Mr. Levy? I guess not. You did a good job. Thank you. [LB1049]

DAVID LEVY: Thank you, Senator. [LB1049]

SENATOR DIERKS: Other proponents for LB1049? [LB1049]

ADAM HERINK: Good afternoon. My name is Adam Herink, A-d-a-m H-e-r-i-n-k, and I'm with Boyd Jones Construction. We're a Nebraska-based general contractor. We're an 85-year-old company. We have construction experience in the energy field. We've worked on hydroplants, coal plants, and nuclear facilities. About 24 months ago, we identified the wind business as an area of growth, not only for the state, but for our region, and we have experienced an abnormal set of difficulties to enter into the market as a company. My personal opinion of this is because the nature of the projects are

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rather large. It's a relatively new industry, and there's few end users which translates into fewer opportunities. The projects built so far in Nebraska have had little local participation. We do have two tower manufacturers within the state. Neither of these manufacturers have yet to sell a tower within the state of Nebraska. Most of the construction companies have come from out of the state of Nebraska. They usually self-perform a large portion of the work and bring 10 to 15 of the top-skilled people of the project. Our opinion is the effects of this is...there's a possibility we will not create an industry relative to our wind potential. We are losing out on amounts of capital investment from this industry, and we are not developing any competitive intelligence that we can export to other states within the industry. We are proponents of LB1049 because we believe it's a catalyst for Nebraska stakeholders in the industry to engage conversations with national developers and stakeholders. We also believe there will be a catalyst for manufacturing companies to relocate within the state of Nebraska as they look at the possible market share that we are trying to open up with LB1048. Ever since Senator Langemeier graciously said he would introduce this bill, it's been interesting. I've had three different conference calls from developers outside of Nebraska who are in their office trying to figure out how to use Nebraska-based companies on their projects because of this bill. That's just a real world example on the benefit of something like this. So with that, I'd be happy to take any questions. [LB1049]

SENATOR DIERKS: Thanks, Adam. Questions for Mr. Herink? Senator Hadley, please. [LB1049]

SENATOR HADLEY: Senator Dierks, thank you. So basically, what we're saying here is that it reduces the cost of the project by the sales tax effectively. Is that correct? [LB1049]

ADAM HERINK: Exactly. [LB1049]

SENATOR HADLEY: Does this then translate to a lower cost for the developer or kind of a boon to the contracting companies because if they're bidding to out-of-state companies, if the bids are the same, then the contractor in Nebraska gets that extra...does that go to the bottom line of the contractor, that 7 percent? [LB1049]

ADAM HERINK: No, and that's why I like this bill is on a personal level. Nebraska companies still need to be competitive, and if we're competitively priced in your scenario, and let's say we match a Colorado company, the developer should have an incentive to use the Nebraska company because he gets a sales tax break. Now if...you know, if we'd be X amount of dollars more expensive than the rest of...or comparable companies, there might not be the incentive, you know, so this isn't a mandate. But there's an incentive to use Nebraska businesses because there's an added incentive to get the sales tax break. So when you're...you know, when you're looking at two different companies from two different states, hopefully, there's an incentive to use the Nebraska

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company. [LB1049]

SENATOR HADLEY: One other quick question. Is it a little bit like the dog chasing their tail because every state then is going to end up with the same type of incentive to incentivize their projects in their states like Senator Langemeier said, 25 percent in Colorado and such as that? Does this then have a neutral effect if all states basically give sales tax? [LB1049]

ADAM HERINK: I can't speak for the other states, and I'm really not up to date on their legislation, but I will say this. Let's...I would respond with looking at Nebraska's wind potential, and that potential is the demand. So we have a substantial amount more demand than other states in the Midwest, most of them. [LB1049]

SENATOR HADLEY: I hadn't thought about that point. There is no reason to have a wind farm someplace where there's no wind, right? [LB1049]

ADAM HERINK: Exactly, and so that's...as we're going through, you know, LB1048 and trying to open up wind for export and just wind within the state, that's creating...that's market share that these companies are looking at. And it's quite a bit of market share, so we're just trying to stay up to speed and help promote, you know, the use of Nebraska businesses. [LB1049]

SENATOR DIERKS: Any other questions? Guess not. Thanks so much for coming, Adam. [LB1049]

ADAM HERINK: Thank you. [LB1049]

SENATOR DIERKS: Further proponents, please? [LB1049]

DAVID RICH: Good afternoon, Chairman Dierks, members of the Revenue Committee. I am David Rich, D-a-v-i-d R-i-c-h. I am the renewable energy development manager at Nebraska Public Power District. I'd like to testify in support of this. NPPD, OPPD have been working hard and others with public power to attract wind turbine manufacturers to the state. The last few years we've been back to the AWEA show, and we've had a booth where we again talked to a lot of different manufacturers. We've had a lot of site visits. Unfortunately, we've come in second several times other than the Katana Summit and the blade manufacturer in Grand Island. I think this bill clearly would send a message to the turbine and the cell manufacturers to seriously consider using Nebraska manufacturers. The projects that have been built in the state thus far are General Electric and Vestas turbines are the ones that are either under contract or will be built. To my knowledge, it's those two main suppliers, and for right now, neither of those firms have approved Katana Summit, for example, as a tower manufacturer. And so this bill would send a message to them to seriously consider using Katana Summit as another

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alternative supplier for their towers, and I think that's very important. As we go through a competitive bid process, we are ending up with a low-cost bid, and if we can do anything to encourage that manufacturer to use Nebraska parts, that would be beneficial for all of us. [LB1049]

SENATOR DIERKS: Okay. Thanks, David. Questions for Mr. Rich. Guess not. Thank you very much. Further proponents? Anyone else in support? Is there opposition to LB1049? Whenever you're ready, John. [LB1049]

JOHN HANSEN: Vice Chairman Dierks, members of the committee, for the record, my name is John K. Hansen, J-o-h-n Hansen, H-a-n-s-e-n, and I am the president of the Nebraska Farmers Union and also the co-chair of the Nebraska Wind Working Group. It took me a lot of thought and reflection to decide which of the boxes to check on this particular bill. We are very much in support of the efforts on the part of the Boyd Jones folks and we're very much in agreement with all of the issues that Adam Herink raised. But we're talking about the criteria for sales tax abatement for C-BED projects, specifically, and so I think it's...you know, it's important to back up just a bit and review how we got to where we're at. And so we have worked...my shop has worked on wind energy development since the early 1990s, and we've been at the business of doing public education and trying to bring all of the facts and information that are available on wind energy development and all the facets with it to Nebraskans. Last year alone, we did 111 public information meetings across the state on wind energy development and the amount of interest and the state of development is very encouraging. We have now gotten past the first question as to whether or not we should develop our wind resources. We're now in the much more difficult and sticky area of how do we best do that, so how do we do it in a fashion that maximizes the benefits to our state? And so the efforts that went through on the part of Senator Dierks in LB629 needs to be revisited in that we are the folks who, as we looked out across the economic development and wind development arena, who's doing what that makes the most sense? And so Minnesota was the clear leader, so we went to Minnesota. We did a lot of research up there, and the C-BED bill is a concept that was brought to Nebraska, modified through, as I remember, about six weeks of negotiations led by Senator Dierks with all the stakeholders to try to figure out how we modify that C-BED concept, so it's Nebraska appropriate given our public power state. And my organization is extremely proud of and protective of our public power system. And so we wanted to open up wind development. We wanted to be able to utilize private sector incentives which other states were able to use, and our state was not able to use because we're a public power state. But our shop was also...Farmers Union was one of the original pushers of public power and helped create the public power system in our state. And so we want to make sure that we're not doing things that undermines public power. We want to make sure that we're doing things that really maximizes the benefits of Nebraska. So when we started down the shopping list of what's in and what's not in, C-BED and how do we structure that, the things that we're talking about...really Nebraska content services and

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products was a part of the discussion. And we were not able to get consensus at all about how it is to define those things relative to a C-BED project. So if you'll look at the ownership structure of C-BED and who's a qualified owner and who's not, and then you look at the standards for eligibility for the sales tax abatement, 33 percent of the gross revenue from the project has to go to qualified owners. It was our intent that you also had to meet not only the performance criteria, but you had to also as a project meet the legal project structure requirements. That is not how the Revenue department crafted the regulations for LB629 and the accompanying sales tax abatement bill which was sponsored by Senator Preister. And as you kind of rethink that history, relative to how on LB1048...the bargain was when we came to the Revenue Committee in 2007, is that the state gives up sales tax revenue for this project in exchange for a kind of ownership structure that provides additional economic benefits that more than offset the loss in sales tax revenue because of the primary and obvious reality which is that the primary economic development benefit of wind energy is ownership...ownership, ownership just like location determines real estate value. So ownership is critical. So we've seen because of the amendments that were made to LB629 last year, we have reduced the sales tax abatement now is 33 percent of gross to minus the financing costs of a project which gets the actual required benefit down, not to as you start doing the internal math of a project, and looking at the pro forma, so instead of 33 percent of the revenue going to qualified owners, you know, you're saying at least that much is coming to Nebraska. We would have rather seen a higher standard, but 33 percent was what you could live with if you just considered the ownership structure and the lease payments to landowners. That's how you got the 33 percent of gross. So then when you take 33 percent of gross minus financing, you're now down to a very small figure in the single digits. It's a much, much smaller figure, and so we look at this effort which is a reflection of a reality in wind development where it's one of the...Mr. Herink's fellow general contractors called me yesterday, and he said, it's kind of like the circus. Just because the circus comes to town, that doesn't mean that they all of a sudden start hiring a bunch of local folks to help care and feed for and clean up after the elephants or put up or take down the tents. It's pretty much a self-contained unit. They bring their own folks; they bring their own labor; they bring their own services in a lot of cases. They come in; they build their project. That's how they have the most control. That's how they feel the most comfortable with the development structure, and then they move on to the next project in a lot of cases in another state, so they don't use local folks very much. So one of the advantages of a C-BED project is that it actually is a lot more likely to use Nebraska-based services, products, etcetera. And the thought struck me that if we want to help incent Nebraska content and use Nebraska services and products, you've either got to raise the standard within C-BED qualification up to a much higher level so that you actually have something left so that taxpayers come out ahead in the net as you look at what we give up versus what we bring in, or we ought to have a separate bill that just looks at Nebraska content and really focuses on that and says, okay, if you want sales tax abatement, you could have a C-BED structure or you could have, if you want sales tax abatement, you could have Nebraska content. And then we really focus on



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what should be a Nebraska content, Nebraska services, Nebraska products, and as the National Renewable Energy Lab Economic Study, the benefits of wind energy clearly point out, and I apologize, I don't have those summaries for you today--I didn't think to bring them along, but the number one benefit from economic development is ownership and the number one jobs-based benefit from wind energy development is components, no question about it. So that's why we've been working for the last 15 years to try to get Nebraska focused and moving forward on recruiting components and manufacturers. Those are the long-term best-paying jobs, and then you get as many of the other indirect jobs, the short-term jobs, the construction jobs, all the other kinds of indirect things that you can is a benefit. So my suggestion would be to do a separate sales tax abatement approach for those projects that really do use Nebraska products, Nebraska services, Nebraska contractors, and those kinds of things. And I realize that part of what I've just said is confusing and hard to follow, but it's...from my standpoint, and we're also a part of one of the projects that will be in construction this year. But knowing kind of the internal numbers as I do, we want to be able to end up at the end of the day with incentives that are efficient and appropriate and actually really do what we want them to do. And so it gets to be the business of standards and what is the standard we should use, and I think it's entirely appropriate to try to develop standards that incent companies to use Nebraska-based products and services. And with that, I would end my testimony, and I'd be more than glad to answer any questions if I could. [LB1049]

SENATOR DIERKS: Thanks, John. Questions for Mr. Hansen? I don't see any, John. Thanks for coming. [LB1049]

JOHN HANSEN: And thanks to the committee for their time and patience. [LB1049]

SENATOR DIERKS: Any more opponents? Anyone else in opposition? Is there neutral testimony? Neutral? Would you like to close, Senator Langemeier? [LB1049]

SENATOR LANGEMEIER: I wasn't going to, but I'm going to (laughter). I want to go back to John Hansen's testimony, and I think in everything he said, he made one point talking about the circus, and how the circus brings everybody with them. I think that's the whole fundamental purpose behind LB1049 which I know is not going to move, but the whole fundamental purpose is, is how do we break up that circus for smaller projects in Nebraska? And I think that is truly the essence of everything that was said. Thank you. [LB1049]

SENATOR DIERKS: Okay, any questions for Chris? Thanks, Chris. That closes the hearing today on LB1049, and we will now...is Senator Haar here? Okay, we have opening on LB704. Go right ahead. [LB1049]

TOM GREEN: Thank you. Senator Dierks, members of the Revenue Committee, my name is Tom Green, T-o-m G-r-e-e-n, and I am the legislative aide for Senator Haar,

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and Senator Haar has a conflict with another committee and cannot be here. LB704 changes the zero emission tax credit to the renewable energy tax credit. The purpose of this bill is to allow methane digesters and similar type products to take advantage of this tax credit. Methane digesters are renewable energy. However, because they are burning methane, they are not zero emission renewable energy. Currently, we know of only one such facility in Nebraska and because of that, if you look at the fiscal note, there is minimal or to no impact. There will be a testifier following me who can explain some more details of that, but I would answer any questions you would have. [LB704]

SENATOR DIERKS: Thanks, Tom. Questions for Mr. Green? Senator Utter, or are you just waving at me? (Laughter) Okay, thanks, Tom. Proponents, please, to LB704? [LB704]

KRISTEN GOTTSCHALK: (Exhibit 1) Senator Dierks and members of the Revenue Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the Government Relations Director and registered lobbyist for the Nebraska Rural Electric Association. I am here today to testify as a proponent of LB704 on behalf of the Nebraska Rural Electric Association, but also on behalf of the Nebraska Power Association which represents all of the electric utilities in the state of Nebraska. Give you a little bit of history on this. We actually talked to you about this issue last year as an amendment to LB455, and were told that because there might be a little bit of a fiscal impact, we wouldn't be able to advance it last year, and then it was wonderful to get a fiscal note this year with zero fiscal impact, so we're encouraged by that. In 2006, Senator Preister had introduced LB896 which would have created this renewable energy tax credit. We did approach him at that time to include methane in the bill to accommodate methane digesters such as the one put together by Danny Kluthe, and I do have a letter that he submitted to me to give to you because he could not be here today regarding his support for this issue and why he feels that methane digesters are important. LB896 did pass. It was amended into another bill in 2006, and the methane amendment was intended to help out individuals such as Danny Kluthe. Now Danny Kluthe has an 80-kilowatt methane digester on his hog farm. He has 8,000 hogs, and he dumps about a quarter a pit of manure into the digester every day. The digester manages the manure and creates methane gas which he then burns through a combustion engine. If Danny were here, he would tell you that his original intent was not to generate electricity and make money, but it was to manage his manure waste, and the electricity is one of the side benefits of being able to do that. The other side benefit is he ends up with a waste product that's immediately applicable to the ground in the form of a nitrate fertilizer. Unfortunately, when he went to file to take advantage of the renewable energy tax credit which was amended to include him, Department of Revenue indicated to him that he did not qualify and, indeed, methane does need to be processed through a combustion engine in order to be turned into electricity. And quite simply, all LB704 does is go into the original statute and strike all of the language dealing with zero emissions, and the intent isn't that we can pollute as a result of this

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because it still needs to meet the qualifications of a renewable energy resource, but it would then allow for the inclusion of methane digesters. The renewable energy tax credit only provides a small incentive, but we do think that any incentive that's available for these types of projects is beneficial. With that, I conclude my testimony. If you have any questions, I would be happy to address those. [LB704]

SENATOR DIERKS: Thanks, Kristen. Questions? Senator Hadley, please. [LB704]

SENATOR HADLEY: Senator Dierks, thank you. Kristen, thank you. [LB704]

KRISTEN GOTTSCHALK: Um-hum. [LB704]

SENATOR HADLEY: Now that you are or Mr. Kelley, I think, talked about the fact that we were doing away with the sunset date, is there a reason that the sunset date is being taken out of the...? [LB704]

KRISTEN GOTTSCHALK: Well, yes, primarily because there is a dollar amount limit on the amount of tax credits that can be applied, so the sunset date becomes somewhat irrelevant once those funds are used up. [LB704]

SENATOR HADLEY: Thank you. [LB704]

KRISTEN GOTTSCHALK: Um-hum. [LB704]

SENATOR DIERKS: Other questions? I don't believe so, Kristen. Thank you. [LB704]

KRISTEN GOTTSCHALK: Thank you. [LB704]

SENATOR DIERKS: Other proponents? [LB704]

KEN WINSTON: (Exhibit 2) Good afternoon, Senator Dierks and members of the committee, my name is Ken Winston. My name is spelled K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska chapter of the Sierra Club in support of LB704. We've been long supporters of renewable energy development. We support the use of incentives for the use of methane as a renewable energy source, and a properly designed methane recovery system has a lot of environmental benefits, and some of the ones that I've outlined in my letter include the capture and productive use of methane which is a significant greenhouse gas. It can have significant reductions in odor. If you've been around a livestock facility, you know how strong the aroma can be. And the reduction in odor can be amazing in relation to a facility like this. You can stand a few feet away, and there's hardly any odor at all. There's significant reduction of waste, and then as Kristen indicated, there's also...when the waste has been reduced, it's more productive use of that material. It can be...more easily applied to fields and is more readily applicable as a

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fertilizer. So for all those reasons, we think that this is an appropriate use of the tax code to incentivize this kind of activity. I'd ask the bill be advanced. [LB704]

SENATOR DIERKS: Thanks, Ken. Are there questions for Mr. Winston? Guess not. Thanks, Ken. [LB704]

KEN WINSTON: Thank you. [LB704]

JOHN HANSEN: Vice Chair Dierks, members of the committee, once again, my name is John K. Hansen, John, J-o-h-n Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union and I'm also their lobbyist. We are in support of this, obviously. We've run into some snags in terms of we thought we were already going to do this, and so this helps us actually accomplish the mission of what we had set out to do. And this is a common sense and, for a lot of reasons, beneficial activity, and it really has, I think, some substantial potential in our state as we look at our state as the number one red meat producing and processing state in the country. Any time that we have an opportunity to take something that poses a threat to our neighbors and the environment and turn it into a renewable energy based and clean burning fuel, we ought to do that. This helps us accomplish that, and for all the reasons that have been stated by Kristen Gottschalk and Ken Winston, we would urge the committee to look favorably on LB704. Thank you, Mr. Chair...Vice Chair. [LB704]

SENATOR DIERKS: Thank you. Questions for John? Guess not. Thanks so much, John. [LB704]

JOHN HANSEN: Thanks again. [LB704]

SENATOR DIERKS: Anyone else in support? Anyone else in support of LB704? Is there opposition to LB704? Opposition? Neutral? Looks like we're done. You going to waive closing? [LB704]

TOM GREEN: Yes. [LB704]

SENATOR DIERKS: Okay, thanks, Tom. We'll go now to LB774, Senator Haar's bill, and Tom Green is up. Whenever you're ready, Tom. [LB704]

TOM GREEN: (Exhibit 3) Senator Dierks and members of the Revenue Committee, again, my name is Tom Green, T-o-m G-r-e-e-n, and I am the legislative aide for Senator Ken Haar. And, again, Senator Haar has a conflict in another committee, so that is why I am here. A little background first. LB436 and the net-metering law was passed last year to allow consumers to generate their own electricity through renewable sources and trade it one for one with a local utility. LB774 is a response to a Department of Revenue ruling that after the net-metering bill was already passed, that

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requires a utility to collect sales taxes on any electricity the customer uses even if that electricity is later offset by that customer's own generation. This is a kind of confusing technical area, but what that means is, utilities have to collect sales tax on electricity that is used but then later offset, and utilities cannot determine this amount of electricity without installing additional meters that was not required under LB436 last year, and that additional expense, and it was not the intent of the net-metering law. So this basically again forces customers to pay sales taxes on energy not on their utility bill. Conceivably, although unlikely, the customer could have an electrical bill of zero for the energy, but still have to pay sales tax. This is very confusing, not only to us but to consumers, and we believe LB774 changes the statute to require that the sales taxes be paid only on the net amount of the bill, not on the gross amount that comes into your house. And this is what we intended all along under LB436 in the net-metering law. The handout I passed out should help explain how net-metering works and how this is intended to...the tax system was intended to work. I will be available for questions although there will, again, be testifiers following who could answer some more technical details. [LB774]

SENATOR DIERKS: Okay, thanks, Tom. Questions for Mr. Green? Senator Adams, please. [LB774]

SENATOR ADAMS: Just as a matter of clarification, when you said paying sales tax on zero, so in other words, if I get this right, if I produce X amount of electricity as a customer and put it back into the line, and I receive an equal amount...that's where the zero comes from yet I'm still paying sales tax on what I received from the REA, whoever it may be? [LB774]

TOM GREEN: Basically correct, Senator Adams, and the issue is that your bill is for the electricity used the entire month. [LB774]

SENATOR ADAMS: Um-hum. [LB774]

TOM GREEN: Now, when you're generating more, you're not going to generate more during certain times of the day, and then you'll be using some during a different time of the day when you've got, say, a solar panel. You'll be generating it during the day and not at night. Now, if you used...so extra in the morning...during the day and you're using it at night, it may net out to zero. But the Department of Revenue ruling says you...anything that comes into your house you have to pay a sales tax onto. [LB774]

SENATOR ADAMS: You're paying on it regardless of what the offset might have been. [LB774]

TOM GREEN: Correct. And that seemed counterintuitive to us under net-metering. You're billed for the amount for the month...if your bill says you used 10 kilowatts or

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whatever for the month, you should pay...that's how much you should pay sales taxes on, not...12 kilowatts came into your house during part of the day and then 2...yeah. [LB774]

SENATOR ADAMS: And this is purely the sales tax on consumption, not on any transformer fees or anything like that that might accompany a particular bill. [LB774]

TOM GREEN: Correct. This would only go to consumers and the department was, in our opinion, correct when they said that if you generate more than you use, you wouldn't...you don't have to pay sales...they don't have to pay you sales tax or anything like that, so. [LB774]

SENATOR ADAMS: Got it. All right, thank you. [LB774]

SENATOR DIERKS: Other questions? Senator Hadley. [LB774]

SENATOR HADLEY: Senator Dierks, I'm trying to think through the logic on the Department of Revenue ruling. Would their logic be something like this that basically, you're buying electricity from the utility that is sales taxable, and you're selling electricity back to the utility that is not taxable because you're selling it to a tax exempt organization? Is...I'm trying to think why they had that...why they made the ruling this way. [LB774]

TOM GREEN: I'm not...I mean, the positive thing about the ruling is that it made the net-metering bill fiscally neutral, but I think the...and the issue is that you may be using...they say you should pay sales tax on all electricity that you use. If it comes into your house, you're using it even if you later then generate more and send it back to the grid and... [LB774]

SENATOR HADLEY: Okay, thank you. [LB774]

SENATOR ADAMS: This may be as much, again, a question. Maybe it's not so much that the utility is tax exempt because it probably isn't; it's rather as far as revenue is concerned, if I understand what you're saying is, if you receive it, you pay on it, period. [LB774]

SENATOR HADLEY: Um-hum, um-hum. [LB774]

TOM GREEN: Correct, and the revenue ruling if you're selling it back to the utility, it's a sale for resale. So they will collect sales taxes on that when they sell that electricity to somebody else. [LB774]

SENATOR DIERKS: Other questions? Okay, thanks, Tom. Proponents? [LB774]

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KRISTEN GOTTSCHALK: Senator Dierks, members of the Revenue Committee, once again my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k, the Government Relations Director and registered lobbyist for the Nebraska Rural Electric Association, and once again, I will be testifying on behalf of my 35 members as well as on behalf of the Nebraska Power Association representing all of the electric utilities in the state. And as I go through my testimony, I might be able to answer some of those questions with respect to the justification for the revenue ruling. But let me...and Tom did a good job, he really handled some of those technical issues pretty well. Net-metering does allow a customer with the renewable generation resource to offset their own electric bill with their own generation, and these are individuals who are not considered power suppliers. They are simply trying to offset their own energy use, meaning they...in an ideal situation, they're going to generate as much energy as they use. The benefits of a net-metering situation in renewable energy isn't always immediately available, so it allows the consumer to use the distribution to some distribution utility almost like a battery backup--there's some real benefits to them. And while the net-metering law that was passed last year allows for utilities to meter these net-metering customers in a number of different ways, probably the most simple way to describe it is using a single meter. And that means when a consumer is using more energy than their renewable resource is generating, the meter is running forward, so it's adding something to your bill. If you're generating more electricity than you use, then that meter begins to spin backwards, and it's actually subtracting from your bill. And even though they can use...the option is there to use two meters, three meters, whatever, majority of systems are probably going to use a single meter. And at the end of the month, what we see on the bill is the net amount of energy that was used, the amount of energy generated minus the amount used or vice versa. And this is the model that we envisioned when we passed LB436 last year. Now, the Department of Revenue reviewed the legislation and established a ruling that said, regardless, all of the energy we generate...or we deliver to a consumer must be taxed. Their justification for that is that Nebraska is a gross revenue state, and so we have to tax based on the gross amount of energy delivered to the consumer even though we're not collecting a revenue from that energy delivery. So there are those of us that maybe disagree with that ruling a little bit. My favorite analogy is the Walmart analogy. Say I go to Walmart and I buy ten teacups. You know, I'm having a tea party. My mom and all of her friends are coming over...I buy ten teacups. Well, my mom comes...she gives me five teacups. Well, I don't need 15--I only need 10, so I take 5 back to Walmart. Walmart would refund me then my purchase price but not refund my sales tax. They would keep that based on my original purchase and essentially that's what the ruling from the Department of Revenue has done with the net-metering consumer. So the simple analogy, again, let's say a customer needs a thousand kilowatts of energy in a given month. Well, as that meter is going forward and backward, let's say at the end of the month we delivered a thousand kilowatts to him, but he also generated a thousand kilowatts. It didn't all happen simultaneously, but the end of the month the bill netted zero. Because of the ruling, we're then required to go

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back and charge sales tax on that 1,000 kilowatts of energy that we delivered based on the Department of Revenue's ruling. It was never even a consideration during the discussion of net-metering. I don't think any of us assumed that sales tax would be charged on any component other than what we billed the consumer at the end of the month. We did meet with Senator Haar and Tom Green and the Department of Revenue to discuss the ruling maybe to argue our point and, hopefully, get that changed. Unfortunately, I think the ruling was already in the mail. It wasn't going to change, and they told us because of the gross revenue state status that we did have to go in for some kind of legislative change to make this appropriate to only collect sales tax on the net portion of energy delivered. Now, a consumer who has...and this got brought up, a consumer who has...let's say they have a zero amount of energy used net at the end of the month. They probably will still have a charge on the bill because every consumers' electric bill will have a minimum monthly charge, and that covers the cost of things like sending out the billing statements and general office, so there may be a minimum charge on the bill that sales tax would still apply to. And the other question that came up...the electric utilities in Nebraska are not tax exempt. We do pay sales tax, and we also collect sales tax on the product we deliver. With that, I will close my testimony and be happy to answer any questions. [LB774]

SENATOR DIERKS: Questions anybody? Senator Adams. [LB774]

SENATOR ADAMS: So then just as a matter of clarification, the Department of Revenue has approached this in the last year the way that they currently approach all other sales tax on gross receipts. [LB774]

KRISTEN GOTTSCHALK: That's how they described it to us. [LB774]

SENATOR ADAMS: But it's not what was originally intended when this legislation was passed, so you want clarification. [LB774]

KRISTEN GOTTSCHALK: Right, and actually, it's more than clarification. It's authorization. It changes the definition of gross receipts for a net-metering consumer to just be the net amount billed in a monthly statement. [LB774]

SENATOR DIERKS: Okay. Thanks, Kristen. Appreciate it. Further proponents? Whenever you're ready, Ken. [LB774]

KEN WINSTON: (Exhibit 4) Good afternoon, Chairman Dierks or Vice Chairman Dierks, members of the Revenue Committee. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska Sierra Club in support of LB774. A big reason that we're supporting this is our longstanding support for renewable energy development, and one of the reasons why we supported net-metering is the fact that through the net-metering process, it provides an incentive. It makes renewable energy equipment a



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lot more affordable to a consumer who wants to use that. And by being able to put the energy back on the grid and get credit for it, that provides an incentive for the person to make that kind of investment. And having sales tax charged in a situation where the person may have a zero bill or a negligible bill reduces that incentive, and as has been previously indicated, that was not what people understood when the bill was originally passed. This bill would be consistent with what people believed was going to happen when the bill was passed, when LB436 was passed last year. And I guess the final thing is, this is basically just kind of a commonsense kind of thing. I mean, it seems...I like Kristen's Walmart example. I mean, you don't...when you get a refund on something, you take something back, they do refund the sales tax, and you wouldn't expect to if you have a zero bill to end up having to pay sales tax on something you got from the store. So with that, I'd be glad to answer questions. [LB774]

SENATOR DIERKS: Questions for Ken? Guess not. Thanks, Kenny. Other proponents? [LB774]

JOHN HANSEN: Vice Chairman Dierks, members of the committee, again, for the record, my name is John K. Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. We are in support of LB774, and we have been involved in efforts to help create a uniform statewide net-metering policy for, I think, over 15 years. And this is a cleanup bill, but it's also important because it really creates a disincentive and a bureaucratic burden where none should be. And I have no problem saying that I think that the Revenue Department blew it, and I would say pretty much based on the bills that I've seen today, they're 0 for 3, that they really kind of blew the last one also when they developed the regs. And in our view, they very clearly blew the development of the rules and regs relative to C-BED. I mean, they just very carefully just ignored significant portions of the intent language and the legal structure of a C-BED project, said we don't care what the legal structure is as long as the performance criteria is met in terms of 33 percent going to qualified owners. We don't care that two-thirds of the project are on qualified owners, so they get more or less selective, in particular, about interpreting legislative intent in the law in our view. And so I just think that, in part, that our renewable energy and these kinds of things are new to the folks over in Revenue. And they do a good job, I think for the most part, but in this area they're new; they don't really have that background or expertise, and so in all three of these cases, I think further clarification is warranted, and this would be one of them. So we're very much in support of this and can only just reiterate the things that were even said. And with that, I would close and be glad to answer any questions, but at this stage of the afternoon, I can't imagine what that would be. [LB774]

SENATOR DIERKS: Thanks, John. Anybody going to challenge that statement? (Laughter) Okay, thanks, John. Any other...anybody else in support? Proponent for LB774. Is there opposition to LB774? Opposition? Neutral testimony? Anyone neutral on LB774? Would you like to close, Tom? The closing is waived, and that ends the

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testimony on LB774, and that ends our hearings for today. And thank you very much for your attendance and paying attention and keeping score. Did you keep score? (Laugh)  
[LB774]

SENATOR ADAMS: No, I did not. [LB774]