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Transcriber's Office

Revenue Committee
March 06, 2013

[LB411 LB419 LB489 LB490]

The Committee on Revenue met at 1:30 p.m. on Wednesday, March 6, 2013, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB411, LB419, LB489, and LB490. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Charlie Janssen; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: None.

SENATOR HADLEY: My name is Senator Galen Hadley from Kearney. I appreciate your coming to the Revenue Committee. To my left will be Senator Schumacher from Columbus; and to his left Senator Pirsch from Omaha; and to his left is Senator Sullivan from Cedar Rapids; far right is Senator Burke Harr from Omaha; to his left is Senator Janssen from Fremont who will be here; and to his left is Senator McCoy from Omaha; and then Senator Hansen from North Platte. Our committee counsel is Mary Jane Egr Edson to my right. Bill Lock is our research analyst, and Matt Rathje is our clerk and he's got someone who is clerking tomorrow, so she's learning the ropes. Okay. Good. Good. And we have...who is our page today, Evan? Evan is our page, and Senator Schumacher has joined us. If you will turn off your cell phones or put them on vibrate while in the hearing room. The sign-in sheets for testifiers are 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, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your testifier sheet to the committee clerk. There are also clipboards in the back room to sign if you do not wish to testify but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it for the record. If you have handouts, please bring ten copies for the committee staff. If you have only the original, we will make copies. Give the handouts to the page to circulate. With that, we will start with Senator Nordquist on LB411. Senator Nordquist, welcome again to the Revenue Committee.

SENATOR NORDQUIST: (Exhibit 1) I always enjoy being here, Mr. Chairman, and here to bring LB411. For the record, I'm Jeremy Nordquist from District 7, which is downtown and south Omaha. I'm not going to spend a great deal of time talking to this committee about the benefits of developing additional wind capacity in the state. I think you've certainly heard that in other hearings, so I'll just get right into what we're talking about with this bill. LB411 promotes the development of renewable energy facilities in the state of Nebraska which means more clean, homegrown, renewable energy, more jobs, and more economic development in our communities. As an example of how this credit could be beneficial, Nebraskans, as we know, have exceptional wind resources, but so do our neighboring states and we know that we compete against them for investment

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and economic development. This tax credit will give Nebraska a substantial competitive advantage in luring renewable energy investment into our state. The renewable energy industry also seeks certainty in policies that support development in production. This bill will work in concert with federal production credits to provide consistent and predictable incentives to build the renewable energy here in Nebraska without reliance on the federal government. LB411 would provide a tax credit for each kilowatt-hour of renewable electricity that is generated by renewable electric generation facility placed into operation in our state on or after January 1, 2013. For the purposes of this bill, renewable energy includes solar, wind, biomass, or landfill gas. The tax credit would be transferable. It is important to some wind developers from out of state would have little Nebraska tax liability. The transferability is important to make this work as an investment for out-of-state...work as an incentive for out-of-state developers to invest in Nebraska. The amount of renewable energy credits are limited to \$2 million per taxpayer. And if eligible for the credit, it may be earned for eight years after the facility is placed into commercial operation. The value of the credit is as follows: From January 1, 2014, to January 1, 2015, a credit of a half a cent per kilowatt-hour; from January 1, 2015, to January 1, 2017, a credit of one and a half cents per kilowatt-hour; from January 1, 2017, to January 1, 2019, a credit of three quarters of a cent per kilowatt-hour, and then after January 1, 2019 a credit back...goes back down to a half cent per kilowatt-hour. I understand the challenges this committee faces in evaluating what kinds of tax credits are most cost effective for the state. If the committee is not eager to move this bill forward this session, I would ask you to seriously consider renewable energy incentives in your deliberations that come out of LB613. I'm sure you will be looking at that. For wind-energy development in particular, I believe we have a unique opportunity as a state with high wind-energy resources. It is also a window of opportunity with the phaseout of the production...the federal production tax credit at the end of 2013. A credit like this would allow us to offer a unique state-level incentive similar to the incentive created by the federal credit. We could provide the predictability that the developers are looking for and set us apart from a number of other states. In the Midwest when the federal credit expires at the end of '13 here, the only other state that has a production-based tax credit is Oklahoma. So, we would be unique...unique in that level to...as far as competition with states in our region. With that, I'd be happy to answer any questions. [LB411]

SENATOR HADLEY: Are there questions for Senator Nordquist? Senator Pirsch, did you have... [LB411]

SENATOR PIRSCH: So, this is a production tax credit as with respect to any renewable? [LB411]

SENATOR NORDQUIST: It's wind. It's specifically in the bill defined as a production...renewable energy production facility as wind, solar, biomass, and landfill gas, I believe were the... [LB411]

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SENATOR PIRSCH: So pretty broad scope of... [LB411]

SENATOR NORDQUIST: Yeah, yeah. [LB411]

SENATOR PIRSCH: Is there a way other states have...so, I mean, you know, it's kind of an investment proposition for the state wouldn't you say? I mean, it's primarily done in the name of economic development from the state's perspective, right? [LB411]

SENATOR NORDQUIST: That's right. [LB411]

SENATOR PIRSCH: Okay. So, and the costs are...so with respect to the tax credits, are those refundable? The production tax credits, or how do they work? [LB411]

SENATOR NORDQUIST: They're transferable. I'm not sure about refundability, but it would be...it's based on a kilowatt-hour produced based on the scale that I read off. It ramps up a little bit and then it kind of slopes back down and continues at a half cent into the future. The federal credit is, as I said, expires at the end of 2013, so... [LB411]

SENATOR PIRSCH: Is that how the federal tax credits are structured as well with them ramping up and then after some threshold, then going back to one half a cent? [LB411]

SENATOR NORDQUIST: I have that here with what the...well, they've been in place for a little while here. The...right now for wind, geothermal and biomass, the federal credit is at 2.2 cents is what's available. There's a 11...or 1.1 cent for other, but nonwind, geothermal or biomass is available. And that's a ten year credit, but you have to be up and operating by the end of 2013 to start qualifying for that credit. They extended it. It was supposed to expire at the end of '12, but they extended it one year, the eligibility for one year, but the credit applies for ten years of production. [LB411]

SENATOR PIRSCH: And so it's pretty easy to...I mean, what they're guesstimating it looks like in the fiscal note, is the revenue foregone would be something like...in the 2013-14 it ran \$34,000 and then in '14-15, \$2 million. I suppose it would...oh, yeah, it does. It's listed. Kind of stabilizes around there for the next four or five years, but the...is it possible to quantify, you know, you've got the cost quantified. Do we know...what types of benefit then would accrue to the state with these...with this production of tax credit? Can we...are there any other similar states, or can we extrapolate from the federal government? [LB411]

SENATOR NORDQUIST: I don't know if folks after me have information on what's happening in states like Oklahoma that have it, but if not, we can get that information for you, Senator. I don't have it available. [LB411]

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SENATOR PIRSCH: But in your way of thinking it would be, it would obviously exceed the foregone revenue. [LB411]

SENATOR NORDQUIST: I would think so, but we do have to budget for the amount that's on the fiscal note. And I think just knowing where we're at with the current budget, we will have a sufficient amount available for the floor this year to make some of these decisions, both on spending and on revenue side to put...see what the priorities of the floor are. [LB411]

SENATOR PIRSCH: Thank you. [LB411]

SENATOR HADLEY: Senator Hansen, I think has a question. [LB411]

SENATOR HANSEN: Thank you. Senator Nordquist, on the fiscal note it said that the credit now may be paid on a C-BED generator and then the cap...current cap is \$50,000 for all taxpayers, but the bill changes it to \$2 million per individual taxpayer. So, is this somewhat to replace the federal...federal income at the end of 2013? [LB411]

SENATOR NORDQUIST: Really, yeah, to as...I'm sorry. [LB411]

SENATOR HANSEN: If that goes away, if that does not go away, the federal would...would this become moot? [LB411]

SENATOR NORDQUIST: Well, as it's currently drafted, it would allow developers to leverage both credits should the federal credit continue. That's something that we can clarify if the committee chooses not to. I do think, though, if the federal credit does go away and my...I don't have a great sense, I don't know that they're going to be able to extend it, I would assume with everything that's going on there, it's going to be awfully difficult for them to. And us having something like this in place would become a real magnet for developers who are looking around the country at where their best investments can be made. And I think having this in place, as that one goes away, would make us a very, a very strong spot for them to invest. [LB411]

SENATOR HANSEN: You think C-BED generators are a thing of the past? [LB411]

SENATOR NORDQUIST: You know, C-BED works, but that capping at \$50,000 is a pretty small credit and when we're talking about the investments that need to be made here, I mean that was the total amount for all.... [LB411]

SENATOR HANSEN: Well, with the 2.2 cent per kilowatt is a pretty good payment. [LB411]

SENATOR NORDQUIST: Yeah, yeah. [LB411]

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SENATOR HANSEN: Okay. Thank you. [LB411]

SENATOR HADLEY: Senator McCoy. [LB411]

SENATOR McCOY: Thank you, Chairman Hadley and thank you, Senator Nordquist. To kind of piggyback on Senator Hansen's question, obviously, when you say "they" extended the eligibility from the end of 2012 to the end of 2013, "they" meaning Congress, correct? [LB411]

SENATOR NORDQUIST: Congress, exactly. [LB411]

SENATOR McCOY: When was that accomplished? [LB411]

SENATOR NORDQUIST: I believe that was in the fiscal cliff deal over New Year's, I believe. It was in that package. [LB411]

SENATOR McCOY: So, it would have been the previous Congress that would have done that, or would it be the new Congress that did that? [LB411]

SENATOR NORDQUIST: Did that come in...boy, when did that...I don't know when that package passed, if it was...they agreed to it on New Year's, but I think it ultimately passed in the new Congress so it would be the current Congress, I think, but I'd have to double-check that. [LB411]

SENATOR McCOY: Okay. So, and obviously I'm not asking you to look in your crystal ball, but so it is entirely possible if it was this new Congress that officially put this into place, this year extension of eligibility but able to use it for a decade, correct, of production... [LB411]

SENATOR NORDQUIST: Yeah. [LB411]

SENATOR McCOY: ...that could happen again at some point later on this year, especially since the President's State of the Union Address indicated his continued strong support of renewable and alternative energy. [LB411]

SENATOR NORDQUIST: Sure, absolutely. I would just say that even though, I mean, we could consider and as it is drafted would work this way, but this would be on top which would...while they're getting the federal credit, this would still make Nebraska very attractive to them to have this on top of the federal credit, and that is something that I think we can consider if the committee has interest in that. It would just be an additional incentive and it would make us more competitive with all the other states that don't have this, but as far as what Congress is going to do, I just don't know at this point. I think

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with the fiscal matters our country is facing it would be very difficult, but they were able to do it in the fiscal cliff deal, so I just don't have a good gut feeling of where that's going to go. [LB411]

SENATOR McCOY: Thank you, Senator. I appreciate it. [LB411]

SENATOR HADLEY: Senator Harr. [LB411]

SENATOR HARR: Thank you. Chairman Mello...(laughter). [LB411]

SENATOR NORDQUIST: Listen to this guy. [LB411]

SENATOR HARR: Oh, I'm sorry, Senator Nordquist. [LB411]

SENATOR NORDQUIST: Chairman Nordquist. [LB411]

SENATOR HARR: Oh, yeah sorry, Chairman Nordquist. This has a \$2 million fiscal note. You're on Appropriations. Do we have \$2 million to play with? [LB411]

SENATOR NORDQUIST: Just, yeah, as I had mentioned with Senator Pirsch there, we...right now my guess is barring a very terrible April forecast which isn't likely and we're still going through our hearing process and making decisions, but I bet...my guess is we'll come out on the floor with \$15-\$20 million available over the biennium either for revenue bills or expenditure bills or some combination of that, or we could choose to sit on that money as that's also always a possibility. [LB411]

SENATOR HARR: Okay. Here is my other concern with this bill is that we go from a credit of \$50,000 to \$2 million in any one tax year, and yet the fiscal note on this is \$2 million. Can you explain that? [LB411]

SENATOR NORDQUIST: That...I was pleasantly surprised with the fiscal note. That's all I know. And I didn't... [LB411]

SENATOR HARR: Can you explain why you're pleasantly surprised? [LB411]

SENATOR NORDQUIST: Well, you know, it...I probably would assume that there would have been...although, the credit does ramp up, looking at the out-years here, I was a little...you know, I think we're starting in a small amount. It goes from .5 cent to 1.5 cents. I would have thought, you know, these first numbers would be smaller, but the out-years would have shown a bigger number than is on here and I really haven't had a time to sit down with Doug Gibbs to go through his numbers and what he got from revenue and how they put this together. [LB411]

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SENATOR HARR: Okay. Thank you very much. I appreciate it. [LB411]

SENATOR HADLEY: Senator Schumacher. [LB411]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for bringing this, Senator Nordquist. A couple, three questions. Are these refundable credits or they just credits against a tax? [LB411]

SENATOR NORDQUIST: Senator Pirsch asked that and I'd have to go through again. I don't remember. I'm sorry, I should have. [LB411]

SENATOR SCHUMACHER: Then is this just for new construction or is this retroactive to a plant that might be out there already? [LB411]

SENATOR NORDQUIST: So, they have to...it's facilities that have gone into operation on or after January 1, 2013. So it's...and that date, it was when we introduced it in session. If the committee wants to move that back to July, you know, so nothing...we can make it so it is...hasn't...it's nothing...going forward was the intent. Now, we put it January 1, 2013. If this bill wouldn't go into effect until, you know, 90 days after session, so maybe that's the date that we say, no facilities that were in production, in operation before that, or that still gives you the window to overlap with the federal credit, if you do that, because the federal credit, any facility that's in operation until the end of '13. So maybe you just say, January 1, 2014, and then there's no overlap with the federal credit. [LB411]

SENATOR SCHUMACHER: Well, how is that fair to the folks that are in the business and competing who happened to have made their investment without this bonus? [LB411]

SENATOR NORDQUIST: I would just say that they've already made their investment and we're trying to lure new investments. [LB411]

SENATOR SCHUMACHER: So we're trying to bring additional competition in to them. From...I know you've been involved in the wind issues for quite a bit. From...forget about the world of tax. From the world of resources, reliable wind, strong wind, wind that blows 24 hours a day, transmission facilities to take the wind away to wherever somebody might burn it up, how does Nebraska stack up? [LB411]

SENATOR NORDQUIST: I just...just straight wind resources? [LB411]

SENATOR SCHUMACHER: I mean, I think we're mostly talking wind here even though there's a few other things tossed in. [LB411]

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SENATOR NORDQUIST: Yeah, yeah. Well, I mean, I've just heard, you know, we're usually in the top five or six and I've heard recently as high as third for wind capacity...for just raw wind. I mean, if that's...but as far as, you know, how that ebbs and flows and, you know, how consistent it is, I don't have any full understanding of that. I'd have to look into that. [LB411]

SENATOR SCHUMACHER: So...but anyway we're, for raw resources, real world stuff, we're near the top of the heap. Okay. Then, and this is part of the thing we're all going to have to wrestle with over the next year or so is, to what extent is it proper for government to go, and on this credit and other credits, try to sweeten up the pot or sour up the pot in order to get business to invest in something other than the best place to do business. You know, we seem to be the race with industry to figure out how we can shape the real world. And in this case, if we're near the top of the heap on wind, a million dollars a year isn't all that much money, and if a business needs that teaser in order to invest here, then they may be walking away from a good deal that mother nature gave us. So, what in your thought is, when should we use incentives to tease people to make decisions which are not real world but just based on taxes? When is the tail wagging the dog too much? [LB411]

SENATOR NORDQUIST: Well, I certainly think when the state stands to gain more on the back end, I think it comes down to a cost benefit and, you know, I don't come bringing that today, but I do think that certainly the case could be made that, you know, that little treat out here to get the developers to come in, you know, will certainly outweigh the cost of that treat. The benefits of it will outweigh the cost of the treat, even directly to the state in additional revenue. Now, I can't say that I've got all those numbers with me today. I don't, but I do think that's, from my perspective, when we should be making those incentives available. [LB411]

SENATOR SCHUMACHER: What good, though, are we doing the overall economy if a state that's number four is able to lure away a plant from a state that's number two because of a treat? [LB411]

SENATOR NORDQUIST: I don't know that we're luring away from better states. I think we've haven't moved quick enough and we've lost to states that aren't producing any more...or aren't producing...or don't have the resources that we do, to the wind resources, and we're just trying to reestablish ourselves in the top five or six of production and it's going to take that incentive. You know, we weren't the first to play this game, but we've got to play the game, I think. [LB411]

SENATOR SCHUMACHER: Thank you, Senator. [LB411]

SENATOR HADLEY: Questions? Seeing none, thank you, Senator Nordquist. [LB411]

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SENATOR NORDQUIST: Thank you. [LB411]

SENATOR HADLEY: First proponent. [LB411]

RICH LOMBARDI: (Exhibit 2) Good afternoon, members of the committee. My name is Rich Lombardi. I'm appearing today on behalf of the Wind Coalition, which is a regional organization of wind companies and other parts of the wind supply chain who are advocates for wind generation in the region. The spelling of my name is L-o-m-b-a-r-d-i. I'm circulating to the committee a couple of pieces of information that you may want to use on this and any other deliberations you might have with regard to wind in general. First page is a look at the local economic benefits of an 80 megawatt wind project, which is the projects that have to date been built in the state of Nebraska and it looks at both the one year and the twenty year. I'd go to the back page...I think one of the things that kind of goes off Senator Schumacher's question is that tax policy is everything in energy policy. And we wouldn't need any of these incentives if we weren't competing with other energy sources that have incentives. And the particular benefits for Nebraska is that wind energy offers, just to name a few, is the fact that I don't know of a wind project in the state that owns the land on which it sits. So there's an automatic revenue stream of lease payments to landowners which is very attractive. And in most parts of this state where we have a wind project, it becomes one of the largest taxpayers. It's also one of the few economic development efforts that really can only happen in rural areas. If you start going to the next sheet here, you can see that most folks that are in our wind corridor area have seen the advantage of this for their communities. And indeed in the polling that our firm has done over the last, I'd say, two and a half decades, this wind is probably the most popular of the energy sources that are out there. So, obviously, there's huge public support on this. This will just give you a comparison as to what the other states are doing. A snapshot of how much capacity they develop on wind. The next page, go moving backward is just the wind projects that are here to...that are existing in the state today, and then you'll see the Prairie Breeze project which is an energy project that the Omaha Public Power District has just signed off on. And this is really a success story here. This has happened over the last four or five years of which many of you have been tenured in this body on, and it's because you have removed some significant barriers that we've had in the state to development. And, I guess, I would like to make a distinction between what you're talking about today as an incentive, and this may be a distinction of our difference in removing barriers. We spent a lot of time, and your committee spent a lot of time with recognizing that, first, wind generation by a private company in the state is the only manufacturing activity in the state that has to have sales tax inputs, sales tax on its inputs, which then you will see. Later on here, I have the statute from LB1048, which many of you were involved when that dealt with export. And clearly a burden that we have in export, and it's just like every other manufacturer in interstate commerce, is the fact that we have to add to the cost of our products the local input costs with a sales tax on it. In that, we have folks in the state that also have projects. TradeWind is a good example. Invenergy is a good

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example. They have projects in other state, they're bidding them out for...TradeWind just got a project with Alabama Power and they bid three different projects and one was in Nebraska. And the differential is just reflective, you know, it's not rocket science, it's just reflective of the fact that there is a sales tax that has to be on inputs. I might also note...I have truly thought the testimony during your elongated hearings on the tax bills really kind of made the point that if you're going to be doing manufacturing, most states have recognized that you're not going to...you're going to get the sales tax on the...you know, when you finish the product. So I'd say that legislation is a barrier issue. This one, what I think is innovative about this, and I've been retained previously in past lives as lobbyist for the American Wind Energy Association, and I've worked on no less than four production tax credit extensions. Production tax credit is a very effective...it's, I think you've already known this, we've had a production tax credit in the United States seven times since 1992. And I can show you the graphs of when we have the production tax credit, projects are going, when we don't have the production tax credits, they're not. And in the last year we've lost about 30,000 jobs because of the fear of the closing out of the production tax credit. Obviously, with the renewal for one year, we're seeing a lot of activity and Nebraska is really...is jumping on it. We're taking advantage of it. We could double down on the amount of electricity from wind that has taken five years to get there, we may double it within the next two years. Production tax credit was a big player on it. It is not lost on me that we ranked around 27th to 28th in the country in the beginning parts of 2000 in ethanol. And within a decade, we became number two. And I think that what...and I'd like to echo Senator Nordquist is that if we're looking and going forward and doing studies, we would really like whether...that very question, do incentives work? Is it in our interest? Is it good public policy? We've asked...you know, worked with Senator Nordquist in drafting this bill because I really wanted us to have...wrestled with the issue of, does it make sense to have an incentive? And the brilliance of the timing here is that obviously we know the production tax credits to the industry is something they're familiar with that we could attract in a short period of time, probably some folks that want to build. I will probably be working with my colleagues to try to extend the production tax credit, but we got in by the, you know, the skin of our chinny chin chin at the end of the fiscal cliff this last time. So, I don't know if it's going to be extended is a very, very difficult battle. And like I said, that was like the third or fourth time was the charm that we tried to renew the production tax credit, but obviously it's an effective tool. It has caused for the last five years, has caused wind to be for the new electricity--I want to make this clear--the new electricity produced in this country, a third of all of the new electricity in this country has come from wind. Production tax credit was a very significant portion of that. So, I would welcome a look at incentives and the creativeness of how we continue to do things to try to position our state to be a destination for those investments. And certainly would love to work with the committee on this and whether or not the production tax credit is the best way to go, we have identified in the state through the studies of the Department of Economic Development that this is one of the cluster areas that we want to develop, renewable energy in general. And whether this is the way to go or not, but I did thought it was very creative

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to try to take advantage of the expiration of federal tax credit with a state tax credit and see whether or not we could attract some additional activity. You know, two years ago right after we passed LB1048, there were 22 companies with 34 wind proposals in the state. There are thousands of leases with landowners out there ready to go. There's a lot of transmission work that has been done. So, we have...a lot of groundwork has been laid. There's a lot of opportunity here and I think you're going to be really excited the next two years to see a lot of growth in this area and a lot of activity. The question is going forward in the long-term. Is there something that we can do in this state to position us to attract and really leverage the incredible resource that we have? Thank you very much. Be happy to entertain any questions. [LB411]

SENATOR HADLEY: Mr. Lombardi, I have just a quick question. On the map, I find that interesting because we really are lagging the states around us, aren't we? The map you show with, we're at 337 for MW, and Iowa, South Dakota, Wyoming, Colorado, Kansas and Missouri are all ahead of us in the amount. That's a fair statement then, right? [LB411]

RICH LOMBARDI: Yeah. That is, Senator. [LB411]

SENATOR HADLEY: Secondly, do you feel that some day we're going to have to depend more and more on nonfossil fuel generation of electricity? [LB411]

RICH LOMBARDI: I think we're beginning to do that. I think we're beginning to see that. Yeah, I think...I think also, it's a really exciting time in the entire energy business and that we're in some respects, and it's not just renewables, but, I mean, we've really invented renewables here and we kind of lost it to the Chinese market and the European market. But one of the great success stories about wind is that in the last five years when I started working on this, 25 percent of the 8,000 components in a wind turbine were manufactured in this country. Now 65 percent are. And I'd have to say, and I know there were other reasons about things but the delay in not renewing the production tax credit was one of the factors why we don't have...still have in the state a town manufacturer in Columbus called Katana Summit. It wasn't the only thing but it was a big thing. And the beauty is, once we pass the thousand megawatt level, you are going to see some other additional manufacturers. We're already doing some nice manufacturing but our central transportation corridor, as well as that we are the only state, we're the only state that has the east-west transmission interconnect in your state, not too far from your place, you know. We are positioned, we are ready to take it. I don't know if this is the answer. I think there's a big question about what is going to be the future tax appetite out there, but I sure would love to have it included in your review of policy. [LB411]

SENATOR HADLEY: Okay. Other questions? Senator Pirsch. [LB411]

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SENATOR PIRSCH: Our east-west interconnect over in Kearney, you mean, we can sell generated wind energy to either market, east or west, right? [LB411]

RICH LOMBARDI: We need some new transmission out there but it is...we're the only ones that have that in the country. And it's a huge, huge asset in the location, location, location, and it's something where a lot of people in the Panhandle are really hoping we find a way to work it out there because they have an incredible resource and the location is just fantastic for the state, so. [LB411]

SENATOR HADLEY: Any other questions? Senator Schumacher. [LB411]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Rich, for your testimony. You basically testified there are thousands of leases available in Nebraska, there's tons of transmission capacity, we have this neat interconnection thing out near North Platte. We've got lots and lots of wind. We're right in the big purple zone or whatever on your map. We've got all those things going with or without a million dollars a year in taxpayer contributions. They'd be a fool not to come here. [LB411]

RICH LOMBARDI: Yeah, if...I think that's a good question. I think that you're suggesting the two million on an annual basis that this proposal has, right. [LB411]

SENATOR SCHUMACHER: Yeah, yeah. [LB411]

RICH LOMBARDI: Well, all I can say is that the...when you take a look at the incentives in the other states, I mean, one of the big incentives...this is one of the barriers that we have in trying to deal with the industry. In our state...and Nebraska Public Power District and the Omaha Public Power District have adopted by their boards a 10 percent renewable energy standard. In the wind energy in the private sector, those states that adopt renewable portfolio standards find the biggest growth of wind. Now, I contend we have one in the state because political subdivisions of the state, it's not necessarily recognized that way, but in the other states surrounding us there are those, and that kind of guarantees a market. It's certainly an incentive. Not having certainly the sales tax, every state has some type of effort to attract that surrounding us that they don't just happen there without some type of sweetener at the local level. And the mere fact is that you're not competing in a free market system. You are competing in a heavily subsidized energy industry and you're competing against other energy sources that are much more heavily subsidized than you. So you're going to go to states that offer some sweeteners. And that is demonstrated and I think the picture shows that. [LB411]

SENATOR SCHUMACHER: So for a million dollars a year the tail is going to wag the dog? [LB411]

RICH LOMBARDI: No. No. [LB411]

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SENATOR SCHUMACHER: Thank you. [LB411]

SENATOR HADLEY: Okay. Any questions? Thank you, Mr. Lombardi. [LB411]

RICH LOMBARDI: Thank you. [LB411]

SENATOR HADLEY: Any other proponents? [LB411]

DAVID LEVY: Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is David Levy, spelled L-e-v-y. I'm an attorney and lobbyist with Baird Holm law firm and I'm here today as the registered lobbyist for Edison Mission Energy and Midwest Wind Energy. Edison Mission is the owner, operator of four wind energy projects in Nebraska and Midwest Wind Energy partnered with Edison on three of those four projects. Midwest Wind has two other significant projects under advanced development in Nebraska, and Edison is also in discussions to expand its investment in Nebraska. The Edison's Midwest wind projects in Nebraska are in Custer, Knox, and Boone Counties. These projects deliver 280 megawatts of clean and affordable energy to NPPD, OPPD, and Lincoln Electric System. These projects represent an investment in our state of nearly \$600 million. These projects will pay approximately \$66 million in state and local taxes over the next 20 years and they will pay landowners approximately \$42 million in lease payments over that period. There are five major factors that go into siting wind projects: quality of the wind, access to transmission, willing landowners, a purchaser of the power, and a favorable business climate which includes a fair and stable tax environment. While Nebraska is an excellent place in which to be in the wind business, other states tax incentives put Nebraska at a disadvantage. Approximately 30 states offer local property tax exemptions for renewable energy projects. A similar number of states offer sales tax exemptions, but as you heard, in the Midwest, only Oklahoma offers a state tax credit for utility-scale wind production. Therefore, LB411 or something like it would immediately move Nebraska high on the list of the most attractive places to build wind energy generation facilities. Edison Mission and Midwest Wind Energy would like to build more projects in Nebraska and this is certainly something that would help them in that direction. Some may look to Edison's and Midwest's existing investments in the state as proof that tax incentives are not needed. But while that may have been true in the past, it would be a mistake, respectfully, to assume that the same holds true in the future. The key to a significant expansion of wind projects in Nebraska is the ability to export that electricity to other states. And as you've heard in that regard we're competing with those other states, many of whom, most of whom, all of whom have incentives of various kinds. Some have multiple incentives. With the thin margins in the electrical generation industry, our tax structure provides a disincentive that will result in projects being built in other states. We already have the wind. We have the great landowners. We have an excellent public power infrastructure and our transmission access is improving. As the federal production tax

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credit phases out, LB411 will avoid the sharp drop in development that started to occur even as it was potentially phasing out at the end of 2012, and will occur in states without this type of legislation. One last point that I think is very important is that the development of wind energy generation ultimately is finite. If Nebraska moves to the lead now by being aggressive and being smart in how it uses its tax policy to make itself competitive and better than other states, more attractive than other states, it's likely to stay there. If we don't, we could lose out and the opportunity over time will fade. I'm happy to answer any questions you might have and I appreciate your time today. [LB411]

SENATOR HADLEY: Questions for Mr. Levy? Seeing none, thank you, Mr. Levy. [LB411]

DAVID LEVY: Okay. Thank you. [LB411]

SENATOR HADLEY: Further proponents. Opponents? Neutral? Senator Nordquist, would you like to close? [LB411]

SENATOR NORDQUIST: Just say thank you for your attention to this issue today. I know you have a number of related bills to chew through this session and I would look forward to working with this committee to advance any combination of those. Thank you. [LB411]

SENATOR HADLEY: Okay. Thank you, Senator Nordquist. That closes hearing LB411. We'll start with LB419 now. [LB411]

SENATOR SCHUMACHER: Welcome, Senator Hadley, to the other side of the table. [LB419]

SENATOR HADLEY: Always good to be here with my colleagues. My name is Galen Hadley, that's G-a-l-e-n H-a-d-l-e-y. I represent the 37th District. I will be very short. LB419, the bill was drafted, we'd alter the language of the nameplate capacity tax on wind farms. The purpose of the bill is to provide a vehicle for any necessary change in this law which has been challenged in court. So it's basically a placeholder bill in case we need to make changes in the law because of a potential court decision that could be coming down. With that, I would answer any questions. [LB419]

SENATOR SCHUMACHER: Questions for Senator Hadley? [LB419]

SENATOR PIRSCH: Can you tell me, just a one line, you know, kind of short synopsis of what issues are at stake in this litigation that's going? [LB419]

SENATOR HADLEY: I'll tell you what I know about it. I believe it has to do...Knox

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County, is that...does that ring a bell? One of the original wind energy and then it was challenged in court when we changed the nameplate and there's a challenge in court and the company is basically...they're talking about being taxed twice. And it's at the Supreme Court. In fact, I think it's being heard today in Supreme Court. [LB419]

SENATOR PIRSCH: Wonderful. Thank you. [LB419]

SENATOR SCHUMACHER: Any other questions for Senator Hadley? Seeing none. Any proponents for LB419? Any opponents? Anybody neutral? Senator Hadley. He waives. Welcome back, Senator Hadley. [LB419]

SENATOR HADLEY: Vice Chairman Schumacher, this one I think could be a two to three hour bill by the time we're done today. (Laughter) LB489 is...by the way, this is a committee bill so this is the one that you introduced, is a placeholder for any needed changes in the rate of a sales tax in case that potential were to come up this year or next year in dealing with sales taxes. [LB489]

SENATOR SCHUMACHER: Any questions of Senator Hadley? Was that a bid? (Laughter) Seeing none. Any proponents? Any opponents? Any neutrals? Senator Hadley. He's waiving again. Next, LB490. I guess that closes the hearing on LB489. LB490. [LB489]

SENATOR HADLEY: Thank you, Senator Schumacher. I'm Galen Hadley again. This bill was introduced by the committee to act as a placeholder for any needed changes in the rate on income tax. As we were doing, hearing the bills, if it was necessary to have a change in rates, that we needed to combine bills or such as that, it is certainly a placeholder bill. [LB490]

SENATOR SCHUMACHER: Any questions from the committee for Senator Hadley? Any proponents? Any opponents? Any neutral? No closing, being waived. That closes the hearing on LB490. [LB490]

SENATOR HADLEY: With that, we will go ahead into Exec Session. Thank you for coming. [LB490]