

TESTIMONY BEFORE THE SENATE COMMITTEE ON UTILITIES

SENATE BILL 331

February 9, 2004

Chairman Clark and Members of the Committee:

My name is Amanda Spikes, and I am currently a law student at the University Kansas School of Law. I periodically do research for Bernard E. Nordling on energy related matters. It was in doing such research for Mr. Nordling that I came across some state statutes referencing wind energy easements. I wish to bring attention to the following state statutes regarding the recording of wind energy leases or easements.

South Dakota made the below provisions in reference to recording a wind easement. S. D. Codified Laws §§ 43-13-17 (2003)

Any property owner may grant a wind easement in the same manner and with the same effect as a conveyance of an interest in real property. The easement **shall be created in writing and shall be filed, duly recorded, and indexed** in the office of the register of deeds of the county in which the easement is granted.

Minnesota as well as Nebraska have nearly identical language in their statutes regarding wind easement recordation. Minn. Stat. Ann. § 500.50 (2003); Neb. Rev. Stat. Ann. § 66-910 (2003).

All three states also have similar requirements for the contents of instruments creating wind easements. These requirements include, but are not limited to, a description of the real property affected, any terms or conditions under which the easement is granted or terminated, and provisions for compensation of the owner of the real property for interference of enjoyment of the easement or maintenance of the easement. Minn. Stat. Ann. § 500.50 (2003); Neb. Rev. Stat. Ann. § 66-911 (2003); S. D. Codified Laws §§ 43-13-18 (2003).

Respectfully submitted,

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Research Assistant