

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

[LB374 LB467 LB543 LB565]

The Committee on Revenue met at 1:30 p.m. on Wednesday, March 15, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB467, LB543, LB565, and LB374. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Tyson Larson; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SMITH: (Recorder malfunction)...committee public hearing. My name is Jim Smith and I'm State Senator from District 14 in Sarpy County and I'm Chair of the committee. The committee will take up the bills in the order posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation that's before us today. To best facilitate today's proceedings, I ask that you abide by the following procedures. First, would you please turn off your cell phones or mute those and other electronic devices so as not to interfere with the person testifying before us today. The order of testimony will be the introducer of the bill, proponents, opponents, those wishing to testify in a neutral capacity, and then we will hear closing remarks from the introducer of the bill. If you will be testifying, please complete the green form and hand that to the committee clerk when you come up to the table to testify. If you have written testimony or exhibits for the committee, and you would like to have those distributed, please hand those to the page when you come up to the table to testify. We will need 11 copies for staff and committee members and if you need assistance in making those copies, please let us know us, we can help you out. When you do testify, if you would please state and spell your name so we can get that correct into the record. That would be greatly appreciated. I think we probably will just use the light system today and I don't think we're going to have much problems there. If you're not familiar with the lights, the green light will be on four minutes, then we will turn to an amber color for the remaining minute, during which time I would ask that you wrap up your testimony. If you would like your position to be known but do not wish to testify, please sign the white form at the back of the room and it will be included in the official record. The microphone on the table does record your remarks for the transcribers. It does not necessarily project your voice, so you'll need to speak loudly to where everyone behind you will be able to hear you. Let me introduce you to the staff today that's with us. To my immediate right is legal counsel, Mary Jane Egr Edson; to my immediate left is research analyst, Kay Bergquist; and to my left at the end of the table is Krissa Delka. And we do have committee members that have bills in other committees so they will be coming and going during this committee hearing. We appreciate your patience with us on that. So we will be moving in and out of the room during today's hearings. Senator Larson, Senator Groene, and Senator Lindstrom are not currently present, but will be joining us later. Next.

SENATOR FRIESEN: Curt Friesen, District 34, Hamilton, Merrick, Nance, part of Hall County.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR BRASCH: Lydia Brasch, District 16, Burt County, Cuming County, and Washington County.

SENATOR SCHUMACHER: Paul Schumacher, District 22, that's Platte and parts of Colfax and Stanton Counties.

SENATOR HARR: Burke Harr, Legislative District 8, representing parts of Douglas County, within Omaha.

SENATOR SMITH: Very good. And our pages today are Alexi Richmond from Milwaukee, Wisconsin, and Sarah Wearne from Topeka, Kansas, and we appreciate them being with us today and helping us out. And with that, I think we're going to get started on our first bill for the day. We do have four bills before us. Our first bill is LB467 to be introduced by Senator Bob Krist. It relates to changing provisions relating to certain tax incentive programs. Welcome, Senator Krist. [LB467]

SENATOR KRIST: (Exhibit 1) Thank you, Senator Smith. Good afternoon, Revenue Committee and Chairman Smith. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha along with the north-central portion of Douglas County, which includes the city of Bennington, and I appear before you today in introduction and support of LB467. Again, I'm handing out my testimony and some talking points on the individual points there for your approval and for your information later. What does LB467 do? It prevents new applications for three Nebraska incentive programs for two years in order to help alleviate the budgetary impact in the next biennium and beyond. These programs and their operative dates include the Nebraska Advantage Act. New applications will not be approved from July 1, 2017 through June 30, 2019. That does not prevent these holding existing incentive credits from claiming them during the freeze period, but this will likely reduce the fiscal impact in future years. Nebraska Job Creation and Mainstreet Revitalization Act. New applications will not be approved from January 1, 2018 through December 31, 2019. Unused credits can be carried forward from the year they are allocated, but LFO indicates the credits are often used at the earliest opportunity. They estimate this should reduce the budget shortfall by \$12.5 million in '19 and \$12.5 million in '20. Lastly, the New Markets Job Growth Investment Act. New applications will not be approved from July 1, '17 through June 30 of '19. Credits cannot be claimed until two years after the qualifying investment is made. So, let me be clear. This is a bill that is targeted at three major tax incentive programs and it does not make them...it does not cancel the programs in any way. It puts a moratorium on a program for a two-year period and then they're in full force again. As far as the main talking points for LB467, I'll just hit a few of them. Many agencies are being asked to make significant budget cuts in response to the budget shortfall, but these tax credits remain untouched. LB467 invites a conversation about how the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

Legislature should resolve the shortfall responsively. The bill simply freezes spending for those programs for fiscal year '18 and '19. This will shore up general funds and limit future liabilities giving the Legislature time to re-evaluate state priorities. As far as the Nebraska Advantage Act, I served on the Performance Audit Committee for several years and one the focuses that we had while I was on the committee was this particular act. Performance Audit Report, and I invite you to read it, found that only nine of 78 companies with Tax Advantage Act products were new to the state. Jobs created with the act have been incredibly costly as well, estimates between \$24,000 and \$320,000 per job in terms of the incentives. With the new markets, Job Growth Investment Act, New Markets Job Investment Act is intended to help match capital with borrowers in low-income areas, and I think you can see from the bullet points there, that has not often been the exact focus of the act. Finally, the Mainstreet Revitalization Historic Tax Credit, I don't feel that I could ask someone to give up their baby without bringing mine to the table. And I helped put this one in place and I know it is a very effective program, but in times like these, we should all look at all of our programs to see if they need to stay in force and I think that tax credit program could be suspended for a few years and then brought back in with the same kind of vigor that it's been brought back in with in the past. I would also note for you the fiscal...I will bring to your attention the fiscal note. It's kind of all over the map and I think that's indicative of what we have done with our programs. Some of these tax cuts and things that happen are happening automatically without proper audit, without proper function, and without our oversight in many cases. So with that, I would end my testimony. You have some of the background information within the prepared written testimony and I thank you for the opportunity to come before you today. [LB467]

SENATOR SMITH: Thank you, Senator Krist, for your opening on LB467. Do we have questions from the committee? Senator Brasch. [LB467]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Senator Krist. When you say without proper monitoring or audit or anything, does not the Department of Revenue keep, even though the information is confidential, but I believe they do keep track of all of the information and I do believe that they are notifying the communities when a tax credit is going to be claimed. Is that not happening, or...? [LB467]

SENATOR KRIST: Well, I, too, thought that the Department of Revenue was applying oversight, but as a result of what I saw in the Performance Audit that took over a year to complete, I now have serious doubts that anybody is exactly watching what's going on to the money as it's been assigned within those acts. So I would invite you to take a look at the Performance Audit report. It shadows, or at least casts a shadow, on the fact that we're actually watching the cookie jar in terms of those incentives. [LB467]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR BRASCH: Has there been a response from the Department of Revenue? [LB467]

SENATOR KRIST: Again, that in the final analysis for the Performance Audit report, it reflects in there that they cannot in some cases identify exactly the amount of money that is being incentivized, I would say. And they did properly respond and very accurately they helped out in the process and you have some Performance Audit folks here that can explain that to you as well, but I was a little dismayed at how much lack of attention, lack of focus there was on oversight. [LB467]

SENATOR BRASCH: Very good. Thank you. I have no other questions. [LB467]

SENATOR SMITH: Further questions from the committee? I see none. Thank you, Senator Krist, for your opening on LB467. [LB467]

SENATOR KRIST: I have to get back to talk about marijuana so... [LB467]

SENATOR SMITH: Certainly understand, you have a tough day in Judiciary, so thank you for your opening. [LB467]

SENATOR KRIST: Thank you. [LB467]

SENATOR SMITH: We now move to proponents, those wishing to testify in support of LB467. And we have been joined in committee by Senator Larson and Senator Groene. Welcome, Ms. Fry. [LB467]

SENATOR GROENE: I apologize for being late. [LB467]

SENATOR SMITH: Very good. Welcome, Ms. Fry. [LB467]

RENEE FRY: (Exhibit 2) Thank you. Good afternoon, Chairman Smith, and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. Incentive programs such as those included in the bill cost the state hundreds of millions of dollars but are not subject to the same review as spending through the appropriations process. This is not a repeal of these incentive programs, but freezing these programs for two years will give us an opportunity to study and have an honest discussion of how effective they are. At this point, Nebraska Advantage is the only one of the three to have an audit report conducted so far in accordance with LB538. The report found that more time will be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

necessary to run taxpayer data through economic analysis software, and for measures of success to be evaluated. Legislative Performance Audit was unable to determine how many full-time positions the incentivized companies have created, as well as the statewide economic effect of the Nebraska Advantage Act. Legislative Performance Audit has not yet done an audit of the Mainstreet Revitalization Historic Tax Credits or the New Markets Tax Credits. So this would be a time-out and allow time for study until more of these credits are obligated. According to Dr. Timothy Bartik of the Upjohn Institute, Nebraska's business incentives are greater than the U.S. average by 79 percent, and he suggests that Nebraska could reduce its incentives by about 40 percent or \$80 million and still be very competitive with the rest of the country. From the findings of the Legislative Performance Audit report on Nebraska Advantage, I think Senator Krist mentioned that only 9 of the 78 companies with the Advantage Act incentives were new to Nebraska. So, if the goal of the act is to bring new businesses to Nebraska rather than subsidizing existing businesses, we may not be meeting our intended objectives with this legislation. And when we look at job growth, two-thirds of the sectors receiving Nebraska Advantage credits had higher job growth than the non-Nebraska Advantage members of the same sector. However, the flip side is that one-third of the sectors had lower job growth among businesses with Nebraska Advantage credits than those who are not receiving credits. With respect to the New Markets Tax Credit, these are intended to help make capital accessible to low-income areas and assist in their economic development. However, 32 percent of Nebraska's census tracts are in the low-income area as defined under this program. Also, the Government Accountability Office raised several concerns in a July 2014 report about the federal New Markets Tax Credit, which the Nebraska tax credit is based on. The GAO found that the financial structures of the New Markets Tax Credit investments have become more complex and less transparent over time. The increased complexity is due, in part, to combining this tax credit with other federal, state, and local government funds. Based on GAO's survey of Community Development Entities, an estimated 62 percent of these credits received other federal, state, or local government assistance from 2010 to 2012. While combining public financing from multiple sources can fund projects that otherwise would not be viable, it also raises questions about whether the subsidies are unnecessarily duplicative because they are receiving funds from multiple federal sources, and that is from the GAO report directly. The GAO found that the complexity of the NMTC financial structure makes gathering information a challenge, and therefore difficult to assess program effectiveness. They concluded that the potential impact of the New Markets Tax Credit in promoting economic growth and designated low-income communities is diluted if the New Markets Tax Credit produces an above-average rate of return. Similarly, the impact of a combination of assistance from government programs is diluted if in the same cases the combination of assistance is unnecessarily duplicative. GAO cites a case study reported by the Urban Institute, where an investor appeared to put in about \$500,000 of equity to claim \$1.2 million of New Markets Tax Credit. The New Markets Tax Credit was leveraged entirely with \$2.5 million of federal and state historic tax credits without use of a conventional leveraged loan in the New Markets Tax Credit structure. As a result, they found that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

83 percent of qualified equity investment on which an investor claimed the New Markets Tax Credit was provided by other federal and state tax credit programs. They did go on to say that the Urban Institute study authors said that, because of the complex financial structure, they could not rule out the possibility that the investor supplied other non-New Markets Tax Credit funds to the project. Also worth noting, the GAO found that the complexity of the financial structures of the New Markets Tax Credit creates a lack of transparency for taxpayers and the IRS, and can increase both the risk of higher than needed New Markets Tax Credits rates of return and investment transaction cost. I've already testified on a prior bill about the new Job Creation and Mainstreet Revitalization Historic Tax Credits, but I would add that we know that there is overlap with TIF, and according to the GAO report on the New Markets Tax Credit, the New Markets Tax Credit projects are frequently paired with federal and state historic tax credits. For...these programs are complicated and there's a lot of overlap and costs taxpayers a lot of taxpayer dollars, and so for these reasons, we suggest taking a time-out for further study. Thank you for your time. I'd be happy to answer questions. [LB467]

SENATOR SMITH: Thank you, Ms. Fry. Questions from the committee? I see none. Oh, I'm sorry. [LB467]

SENATOR GROENE: One. [LB467]

SENATOR SMITH: Who am I missing? Oh, Senator Groene. [LB467]

SENATOR GROENE: Thank you, Chairman. The way this bill is written, would there be a mad rush to get them done before 2018...approved? [LB467]

RENEE FRY: The Fiscal Office anticipated that there would be a rush on Nebraska Advantage for new markets...for the New Markets Tax Credit and for the Mainstreet Revitalization Historic Tax Credits, there are caps on those so that would... [LB467]

SENATOR GROENE: And those are the ones, if I remember right, disappear right away anyway. They're used up right away, are they not? [LB467]

RENEE FRY: That is what we understand in terms of the Mainstreet Revitalization program. There isn't really any data on the new Markets program. So the Mainstreet, and this is a question that Senator Brasch brought up earlier, so there is supposed to be a joint report with the Department of Revenue on the Mainstreet Revitalization program this year, but there is not a report so far. There is no reporting requirement on the New Markets Tax Credit, so we really at this point don't know how those have been used. And there is an audit. Both of those programs

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

would be audited by the Legislative Performance Audit, but those haven't happened yet. But the New Markets Tax Credit... [LB467]

SENATOR GROENE: The Revenue Department doesn't issue a report on it? [LB467]

RENEE FRY: No, the New Markets Tax Credit is not subject to reporting by the Department of Revenue and the...as I said, the Mainstreet Revitalization is, but that report hasn't occurred yet and that's due by the end of this year, if I'm not mistaken. [LB467]

SENATOR GROENE: Thank you. [LB467]

RENEE FRY: And there is no sunset on the New Markets Tax Credit either, but there is on the other two. [LB467]

SENATOR GROENE: So if there's no reporting, do we know how much money we have not collected or given up in tax breaks? [LB467]

RENEE FRY: It's capped, so it would be subject to the cap. [LB467]

SENATOR GROENE: Both of them are. [LB467]

RENEE FRY: Both of them are capped, yes. [LB467]

SENATOR GROENE: All right. So we know how much we used because it gets used up every year. [LB467]

RENEE FRY: Yes. [LB467]

SENATOR GROENE: All right. Thank you. [LB467]

SENATOR SMITH: I see no additional questions. Thank you, Ms. Fry, for your testimony. Next proponent of LB467. Seeing none, we now invite opponents of LB467 to come forward and to speak. Welcome. [LB467]

WADE ESCHENBRENNER: Good afternoon. Thank you for letting me speak. My name is Wade Eschenbrenner, W-a-d-e E-s-c-h-e-n-b-r-e-n-n-e-r. I'm the CFO at Lexington Regional

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

Health Center in Lexington, Nebraska, and just came here to talk about our utilization of the New Markets Tax Credit program and just the fact that it really did help us in our construction project with the hospital. We used a multitude of resources for our project. We used USDA funds, commercial banks from locally, and the New Markets Tax Credit in our project. And so it really helped us complete the project in a manner that was good for our community and really helped us transition our hospital from an inpatient hospital that was built 40 years ago into more of an outpatient world that we live in today for healthcare, and so the New Markets Tax Credit really did aid us in that fashion. [LB467]

SENATOR SMITH: Thank you for your testimony. So, on your particular project, how much would you say your total project was and how much benefit of that project was from the tax credit? [LB467]

WADE ESCHENBRENNER: Our project was about \$20 million in construction and another \$5 million in equipment and additional things with the facility. We used \$5 million local bank loan, \$15 million USDA loan, private funds from the hospital, and we netted about \$1.7 million in New Markets Tax Credit that went into the project to help complete the project. [LB467]

SENATOR SMITH: Okay. Very good. Senator Schumacher. [LB467]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you for your testimony. Who was the...in the New Markets Program that got a name for the development agency that kind of engineers it all and puts some money together? [LB467]

WADE ESCHENBRENNER: Yeah, we used Enhanced and so our community, Lexington, you know, the New Markets Tax Credits were known in our community. There was another entity in town that used the New Markets Tax Credits and so they helped coordinate that project process. [LB467]

SENATOR SCHUMACHER: Who was the operation? I mean, the community...what they call the organizer, the person that has ability to draw on the federal tax credits and marry them in the...there's an organizer that is eligible to get the credits and work with local investors and put it all together. Who was that? [LB467]

WADE ESCHENBRENNER: Well, we used...we have two. We have a state New Markets Tax Credit and a federal. We use Enhanced Capital was part of... [LB467]

SENATOR SCHUMACHER: And where are they out of? [LB467]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

WADE ESCHENBRENNER: Louisiana, possibly, as I recall. [LB467]

SENATOR SCHUMACHER: Okay. Now do they still own an interest in your business or how are they getting their money and their compensation for their involvement back? [LB467]

WADE ESCHENBRENNER: Well, it was all done up-front and then, you know, we're reporting through the compliance period of the project. And so, we got our fund...our funds up-front in the project. [LB467]

SENATOR SCHUMACHER: And how much of the funds that you got from New Markets have gone back to the Louisiana operator? [LB467]

WADE ESCHENBRENNER: I'd have to double-check on that figure. You know, there were fees setting up the project and getting all of the legalities taken care of within the project. [LB467]

SENATOR SCHUMACHER: And so basically, state and federal funds, New Markets funds amounted to what did you say, a million and a half? [LB467]

WADE ESCHENBRENNER: That was about \$1.7 million that was our proceeds that went into the project. [LB467]

SENATOR SCHUMACHER: Was there any federal money in that or federal new markets, or was that all state? [LB467]

WADE ESCHENBRENNER: It was split between the two. We had both. [LB467]

SENATOR SCHUMACHER: So there's about \$700,000-and-some roughly out-of-state money that went into your deal? [LB467]

WADE ESCHENBRENNER: Yes. [LB467]

SENATOR SCHUMACHER: Okay. Thank you. [LB467]

SENATOR SMITH: Senator Groene. [LB467]

SENATOR GROENE: Did you say you're a hospital? [LB467]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

WADE ESCHENBRENNER: That is correct. [LB467]

SENATOR GROENE: Aren't you a nonprofit hospital? [LB467]

WADE ESCHENBRENNER: We're a political subdivision, yes. [LB467]

SENATOR GROENE: So in the project, was your project? [LB467]

WADE ESCHENBRENNER: Yes. [LB467]

SENATOR GROENE: So how could you get a tax credit, you don't pay taxes? [LB467]

WADE ESCHENBRENNER: They set up a special purpose entity to work within the project. [LB467]

SENATOR GROENE: And they gave you tax credits that you couldn't have never used anyway because you're a nonprofit, if you had kept them. [LB467]

WADE ESCHENBRENNER: Right. We're a nonprofit so we do not have taxes. [LB467]

SENATOR GROENE: So they gave a nonprofit tax credit so you could sell them, so you could generate money for your project. [LB467]

WADE ESCHENBRENNER: Well, there was an investor...we were the beneficiary of the New Markets Tax Credit. [LB467]

SENATOR GROENE: I mean, I'm not...and you're doing what you can do. [LB467]

WADE ESCHENBRENNER: Yeah. [LB467]

SENATOR GROENE: Just seems like...so if I build a new public high school and we apply for tax credits, the person who builds it and they're never going to pay taxes, so the school could sell the tax credits to somebody who does? That kind of sounds like what you did here. [LB467]

WADE ESCHENBRENNER: No, I mean we're a political subdivision. We're not the same as a school, so we're a business as well. [LB467]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR GROENE: But you don't pay property taxes, do you? [LB467]

WADE ESCHENBRENNER: No. Well, we pay some property taxes on some... [LB467]

SENATOR GROENE: ...line of business to a doctor or an office or something. [LB467]

WADE ESCHENBRENNER: Correct. So really, you know, we're here about taking care of our patients in our community and surrounding communities. [LB467]

SENATOR GROENE: Oh, I understand. I'm not accusing you, I'm just saying, this is... [LB467]

WADE ESCHENBRENNER: And really the New Markets Tax Credit helped us transition our facility that was built 40 years ago into, you know, modern-day hospital. And in Lexington, Nebraska, it's important to attract investment to our area. It's a socially economically depressed community and... [LB467]

SENATOR GROENE: They didn't find out a way to test that too, did they? [LB467]

WADE ESCHENBRENNER: What's that? [LB467]

SENATOR GROENE: They didn't find a way to test that nonprofit project too, did they? [LB467]

WADE ESCHENBRENNER: I guess I don't have a response to that. [LB467]

SENATOR GROENE: All right. Thank you. [LB467]

SENATOR SMITH: Senator Harr. [LB467]

SENATOR HARR: Thank you, Mr. Chairman. Thank you for coming down here today. Those New Markets Tax Credits are transferable, correct? [LB467]

WADE ESCHENBRENNER: I believe so, but I don't have the exact... [LB467]

SENATOR HARR: Okay. Were they sold? [LB467]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

WADE ESCHENBRENNER: Yes, I believe they were. [LB467]

SENATOR HARR: Do you know how much the federal were sold for and how much the state were sold for? [LB467]

WADE ESCHENBRENNER: Not off the top of my head. I could get you that information. [LB467]

SENATOR HARR: Do you know if the federal or the state sold for two different amounts? [LB467]

WADE ESCHENBRENNER: I would probably say yes. [LB467]

SENATOR HARR: And why is that? [LB467]

WADE ESCHENBRENNER: Tax rates are different between the programs. [LB467]

SENATOR HARR: Okay. Thank you. [LB467]

SENATOR SMITH: Senator Schumacher. [LB467]

SENATOR SCHUMACHER: Thank you, Chairman Smith. On the money that you got from the community development organization, whatever they call it, of the New Markets Credits, how much of that do you have to pay back? [LB467]

WADE ESCHENBRENNER: We have a really low-interest rate loan and then through the compliance period and so then that should convert to equity into the compliance period. [LB467]

SENATOR SCHUMACHER: So you have to pay that million-something back? [LB467]

WADE ESCHENBRENNER: Potentially over...if they don't recall the credits at the end of 30 years, we would basically have that, yes. [LB467]

SENATOR SCHUMACHER: So they got some...the outfit in Louisiana got some money back from the federal government, from the state government, and now you got to pay the loan back, or the financing tool back? [LB467]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

WADE ESCHENBRENNER: Yes, it's a loan at this point, so we're paying less than 1 percent interest, or around 1 percent interest loan through the compliance period, and that should convert to equity at the end of that compliance period. [LB467]

SENATOR SCHUMACHER: But they got their credits up-front and then applied it toward something else that they would have to otherwise pay tax on. [LB467]

WADE ESCHENBRENNER: I do not know what they did with their...on their end. [LB467]

SENATOR SCHUMACHER: All you know is you got a million and a half low-interest dollars. [LB467]

WADE ESCHENBRENNER: Correct. [LB467]

SENATOR SCHUMACHER: Okay. Thank you. [LB467]

SENATOR SMITH: I see no further questions. Thank you for your testimony today. [LB467]

WADE ESCHENBRENNER: Thank you. [LB467]

SENATOR SMITH: (Exhibits 3-6) Next proponent of LB...I'm sorry. Next opponent of LB467. We do have letters for the record to be read in: Greg Youell from Omaha/Council Bluffs Metropolitan Area Planning Agency; Michael Sothan from Main Street, Beatrice; Mike Lang, city of Lincoln; and we have one letter that was signed by Wendy Birdsall of the Lincoln Chamber of Commerce, David Brown of the Greater Omaha Chamber, and Barry Kennedy of the Nebraska Chamber of Commerce. And again, those letters were sent in for the record in opposition to LB467. Anyone wishing to testify in a neutral capacity on LB467? Seeing none, Senator Krist did waive closing on LB467. That closes the hearing on LB467. We now move to LB543 to be introduced by Senator Watermeier related to changing provisions relating to applications and reporting requirements under the Nebraska Advantage Act. Welcome, Senator Watermeier. [LB467]

SENATOR WATERMEIER: (Exhibits 1 and 2) Thank you, Chairman Smith, and members of the Revenue Committee. I am Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r. I represent District 1 in the southeast corner of the state. As a former chair of the Legislative Performance Audit Committee, I introduced LB543 on the committee's behalf because a new committee was not yet created at the time of bill introduction and the deadline. The new committee has made this bill one of its priority bills for this session. The main purpose of LB543 is to give the Revenue

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

Committee a vehicle to consider recommendations from the Performance Audit Committee's 2016 evaluation of the Nebraska Advantage Act. As you know, that was the first and what will be a series of performance audits on tax incentive programs. The Advantage Act Audit highlighted a number of policy questions as well as technical challenges. LB543, as drafted, along with two amendments I will present today, give you options to address many of these concerns raised by the audit. We drafted two amendments to separate the proposals that helped during...bring clarity and new information to the future evaluations from the proposal that would actually make a change to the benefits future companies participating in Advantage Act would receive. I'll start with AM617, which I have handed out, which contains the proposals to bring clarity and new information to future audits. AM617 includes everything in the green copy of the bill and as most of the other recommendations from the Advantage Act audit, these are the changes that would make evaluations easier to conduct and more informative for the policymakers. They do the following: Clarifying, defining certain terms, updating the Act's goal language, setting a benchmark, providing additional information for evaluation. Existing statutory goals for the Advantage Act are very broad and include terms that are not defined. Because of that, it is difficult for an evaluation to give us good sense of whether or not the program is, in fact, doing what we in the Legislature expected it to do. Without clear goals, it is also difficult to identify good metrics or measures of programs activities. To address these concerns, AM617 adds goal language to the Advantage Act's legislative findings. This additional language reflects the recommendations of the LR444 Committee and the evaluation requirements laid out in statute for tax incentive evaluations regarding diversifying the state's economy by stimulating high-tech and renewable energy companies. Additionally, the amendment defines terms in the law such as what a new business is, full-time worker, high-quality job, high-tech company, and renewable energy company. These definitions will be used in performance audits of the program but in no way change who can participate in the program or the benefits available to participants. In addition to having their clear goals and metrics, the most informative in valuations also have benchmarks with which to compare program's results. AM617 includes a benchmark for new job creation as guidance for audit staff to help determine the Legislature's expectations for the program. It sets a goal for increasing employment by Advantage Act companies at 10 percent above the employment increase of their statewide industry sector counterparts. I will tell you that 10 percent is an arbitrary number. We just chose that because a lot of the 2016 audit found that participating companies and several industry had increased their employment by this amount. AM617 also includes intent language regarding calculation of cost for full-time equivalent, or FTE. For the recent Advantage Act Performance Audits, audit staff calculated multiple estimates of the cost for FTE to show how wide the cost range is depending on which program benefits are actually included. Most significantly audit staff found it was not clear whether the Legislature believes that increased investment supports increased jobs or whether jobs and investment are independent of one another. Since this was not clear, the Audit Office calculated the cost for FTE reflecting both positions. AM617 would demonstrate that the Legislature would like cost per FTE estimates to continue to be conducted showing the cost per

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

FTE with a minimum amount of investment credit costs and with a total investment of credit costs. The last set of recommendations that AM617 deals with are related to gathering data for the Advantage Audit Act. Data matching between the records of the Department of Revenue and the Department of Labor was challenging and time consuming. AM617 would improve data matching and enhance the Audit Office's ability to evaluate the act by requiring companies to report all of their federal employer identification numbers, their unemployment insurance identification numbers, information regarding employees. Additionally, AM617 would require companies to report on certain state programs they receive money from and more specific information on categories of investment. My intention would be to have three these reporting requirements applied to companies currently participating in the Advantage Act in addition to those participating in the future. At a very minimum, currently participating companies should be required to provide the federal ID and the employment insurance numbers that are needed to be able to match the Department of Revenue data with the Department of Labor data the next time we get around to the audit of the Advantage Act. Now the second amendment I will bring you today is AM616, response to the finding in the Audit Report that currently there are no fiscal protections to keep the program cost. And by cost, I mean the revenue foregone due to the program's tax exemptions and refunds from greatly exceeding what the Legislature originally envisioned. As noted earlier, AM616 was drafted separately in order to focus discussion on the policy issue of whether or not fiscal limits of any kind should be added to the Advantage Act. The audit report stated that the original projections for the program's fiscal impact range from \$24 (million) to \$60 million per year. The report noted however that the calendar year 2013, the state benefits, meaning what there was collected from the companies were almost \$109 million with about \$19 million from the local benefits, meaning local sales tax and property taxes. Although these amounts drop some the next year, the Revenue Department's 2014 annual report projected that benefits in the future could again reach \$100 million. And this is just from the Advantage Act. AM616 would address the fact that the Advantage Act contains no fiscal protections by setting a limit of \$25 million on the amount of the state and local benefits, a single project could earn. This proposed cap would only affect projects with an application date after January of 2018. I will tell you that \$25 million is strictly an arbitrary figure. We cannot propose an actual average or median benefit amount because so few Advantage Act projects have been completed and we do not know the total amount of all the tax benefits each project will earn. Projects in some of the Advantage Act tiers are likely to earn much less than \$25 million, but some may earn more. This amendment is intended at the starting point. A starting point for you as far as discussion of whether there should be a program caps and if so, whether limits on the individual projects should be a good way to do that. There are some other ways we could talk about as far as limiting a program's expense, which we can discuss more with committee members, if you're interested in that. In closing, I'd just like to say that the Audit Committee, and I realize that there are other ways beyond these and these amendments, that we could address some of these audit concerns and we are open to considering whatever the committee might think is best. I thank you, Chairman Smith, and I appreciate this was a long opening, but this is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

laying out a lot of detail. And I think the Audit Committee did a good job in the last two or three years. The Legislature in itself has really made a focus about, let's get to the bottom of what this costs and how we can do it better. And so with that, I'll stick around and I would be willing to take questions right now if I could. [LB543]

SENATOR SMITH: Thank you, Senator Watermeier. Senator Brasch and then Senator Schumacher. [LB543]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Senator Watermeier. As I heard the bill before with Senator Krist and then I'm hearing your bill, and just thinking about the big picture here on, you know, the goals we're trying to achieve to see, you know, what the benefits are. But I'm also wondering as we see the forecast board report as we see, you know, our revenues as the state declining during this period of time and maybe the next few years, would you say that the businesses that quality for these credits that they also run their business based on goods or services that maybe also diminishing? That if we feel the pinch as a state, as a whole, perhaps those entities are also experiencing the same thing and so if we...do you see what I'm wondering? [LB543]

SENATOR WATERMEIER: I don't see exactly where you're going but certainly the companies that have taken applications, then gotten benefits from the Advantage Act, will be affecting the state's economy as we all are, I guess, yes. [LB543]

SENATOR BRASCH: Right. And so my concern...I have a concern as we make an attempt to freeze or change those credits that we're making it increasingly...or we're making it difficult for those companies to remain viable in Nebraska as compared... [LB543]

SENATOR WATERMEIER: Well, let me just answer that. This bill here strictly gets back to...we're not trying to freeze other than we did offer an amendment as far as talking about capping where a future audit...Advantage Act applications may go, keep in mind this bill is just going to help us to define how much money we've spent, where the dollars have gone to and then take pictures of trying to decide what the cost of it, FTE is. You know, one of the main things that we've discussed in the bill, and I'll talk a little bit more about it in the closing, but this bill, the Advantage Act just talks about growth and jobs. Sixty-five percent of the investment in the Advantage Act is just investment credits without wage credits at all. I think it's five to one, the dollars are five to one investment credits compared to what wage credits are benefit from to the company. So we're not getting the benefits of wages earned in the state is what we once thought. We're just trying to get this bill to help us define the Performance Audit Committee how it can get down to better measurements and metrics. That's what I would focus on, what this bill does. [LB543]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR BRASCH: And I understand that, but I'm wondering if the message we're sending out to those who are either doing business in Nebraska or considering doing business in Nebraska, if they're believing and apparently that we are reexamining, rethinking, what those...and it's performance-based. You know, but that we are changing our structure, that it is not...most likely this will lead to a structure change, would you think? [LB543]

SENATOR WATERMEIER: This is going to tell us how to write future audit act...or excuse me, incentives I would say in the future. This is going to have some value today on the tax incentives that we pass over the future. But I have said for three or four years that I've been involved in the Audit Committee is that this is really going to lay the base for when we come to the conclusion that we've got to have new tax incentives, we're going to be able to put in place better metrics, better goals, better defined measurements, because when these were...in 2003 through '05 when we built the Advantage Act, basically no goals in there. No...I mean very limited, very broad goals as I said in my opening. Twenty years ago when LB775 was passed, even fewer yet. So we were throwing a lot of money around the state without a lot of...let's measure this in three and four years from now. That's what we're trying to do today is to get us a better base. When we come in to rewrite these tax incentives, we're going to have better...we're going to be better equipped to ask the questions and put in place the reporting mechanisms that we should have that we're going to get in their place today. That's what I would tell you. [LB543]

SENATOR BRASCH: Very good. I have no other questions. Thank you. [LB543]

SENATOR SMITH: Senator Schumacher. [LB543]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you, Senator Watermeier, for bringing this bill and thank you for your efforts on the Performance Audit Committee for trying to figure out how many souls the preacher is getting into Heaven, (laughter) because it's an impossible question to answer. But thanks for the effort. Do we have any idea how many of these credits have been earned and are laying out there ready to be sprung on us this year or next year, three years from now? [LB543]

SENATOR WATERMEIER: We don't but, you know, in the last fiscal analysis and the report that we had here three weeks ago where it showed the revenues were falling--revenue forecast--the tax credits are coming in right on stream and they're not slowing down at all, so we know there's a liability out there. We don't have a good handle on that and I mean, that's part of this puzzle as well that we need to get around. [LB543]

SENATOR SCHUMACHER: One of the things that I agree, we need to have some...what we need to have in this bill and be able to measure and set some standards, but to the extent this

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

thing may be a real bleeder and we may not be getting our monies worth for these credits. While we're studying it, while we're putting these metrics in place, we're also making continuing commitments that go out, you know, decade into the future. And a decade which may be real tough times in the state, and real tough times for revenue. Should we look at doing what Senator Krist was suggesting, say, wait, let's do a time-out. Maybe these things either need rapid reformation or maybe they need to be terminated or no new applications. Right now if we just study them, and just put metrics in place, we are making these commitments that really may be bad investments, something that President Trump would never do. [LB543]

SENATOR WATERMEIER: You know, I would agree with that statement, but let me tell you where I'm at here in the position of Performance Audit member. Obviously, I did the bill on my own because we didn't have existing committee at the time. But what you're asking is exactly the debate we had on the floor last year and the year before because the Revenue Committee was trying to get their arms around the sunset dates. And we kind of had a long debate about that and I believe that argument belongs in this committee. And the Performance Audit Committee needs to be your arm to go out and evaluate, bring me back the numbers that you need, and then you guys decide that sunset date. But I agree. Maybe that's what we need to be talking about is sunsetting these things, putting a hold on them. But, like I said, my value on this whole thing is going to be we'll be better prepared, we'll be better prepared to write the next in tax incentives, whatever that may look like. I really thought we would have some suggestions this year, but I just assume because of the revenue projections that no one wanted to bring anything forward. [LB543]

SENATOR SCHUMACHER: So basically your bill here is to say, let's set up a framework, maybe using the Advantage Act as the guinea pig for it if it stays around and isn't repealed, and so we know how to handle these questions when invariably we get the requests for the next onslaught of tax credits. [LB543]

SENATOR WATERMEIER: Yeah, you know, there's a lot of value in doing some footwork on what we already have in place today because this will build us and this will give us some base work to go and prove to the fact, yeah, we need to write the next tax incentive with these...with this language and these reporting mechanisms. Very few people understand what the Audit Committee...I mean, committee out of the department behind the scenes had to go through when we had this first interaction with the Department of Revenue. It was quite a learning experience and all those experiences are going to help us in the future, but we'll have more of those probably in the future so every time we can do this, this is a chance to learn. But we're learning in the public's eye. We're learning right out in front of everybody here, so it's a difficult task. [LB543]

SENATOR SCHUMACHER: Thank you for your work, Senator. [LB543]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR WATERMEIER: Yeah. [LB543]

SENATOR SMITH: Senator Harr. [LB543]

SENATOR HARR: Thank you, Mr. Chairman. Thank you, Senator Watermeier, for bringing this bill. And I did bring a new Advantage Act bill this year, and I'm not sure it's going anywhere. And I know you brought one too, LB546. [LB543]

SENATOR WATERMEIER: That was in regards to some reporting mechanisms. Really it was more in regards to this and how we would cleanup the Advantage Act to make it easier to manage it. [LB543]

SENATOR HARR: LB543 has a priority. [LB543]

SENATOR WATERMEIER: Yes. [LB543]

SENATOR HARR: If we vote this out, do we have your word that you don't try to put LB546 on to it? [LB543]

SENATOR WATERMEIER: Yes, you would have my word for that because I gave you my word that we would talk about LB546 along with your bill. [LB543]

SENATOR HARR: Okay. [LB543]

SENATOR WATERMEIER: And I'm still waiting on your bill. So you can put LB546 into yours. (Laughter) [LB543]

SENATOR HARR: Okay. Very good. [LB543]

SENATOR WATERMEIER: I'll leave you that option. [LB543]

SENATOR HARR: Okay. Thank you. That's all. [LB543]

SENATOR SMITH: Sounds like we made a deal today. Senator Groene. [LB543]

SENATOR GROENE: Thank you, Chairman. [LB543]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR WATERMEIER: Groene will be the deal buster. [LB543]

SENATOR GROENE: You only got filibuster one if you put it together. (Laughter) Anyway...just joking. So you did more than just put...you actually changed the law here, didn't you? [LB543]

SENATOR WATERMEIER: Yes. [LB543]

SENATOR GROENE: Because you said just reporting mechanism but you're putting a cap in that wasn't there before. [LB543]

SENATOR WATERMEIER: That cap is in the second amendment that we're proposing for you guys. It's just laying out there. I thought about putting it all in one amendment but the more I got to thinking about it, you guys can look at the first amendment as procedural. [LB543]

SENATOR GROENE: Yeah. [LB543]

SENATOR WATERMEIER: There's some changes in statute in that first amendment, but that second amendment is for discussion only. There's another way we could actually do caps, that's why it's good discussing with a (inaudible). [LB543]

SENATOR GROENE: Well, I'm against them, I'm just saying you're actually changing the statute though. [LB543]

SENATOR WATERMEIER: Yes. [LB543]

SENATOR GROENE: Besides putting procedural... [LB543]

SENATOR WATERMEIER: Correct. [LB543]

SENATOR GROENE: ...reporting stuff into it. You know how many companies now are getting more than \$25 million? [LB543]

SENATOR WATERMEIER: I don't know off the top of my head. I can't imagine it's very many, but we don't even have enough time in there. See, that's not over per year. That's over the lifetime of an applicant's Advantage Act and that takes several years, you know. Some of them been around since 2009 or '10. [LB543]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR GROENE: So there's a bill here that we're going to extend somebody 16 years. If they hit \$25 million prior to that, they would stop. They would exceed the 16 years? [LB543]

SENATOR WATERMEIER: No, my suggestion on my amendment would be strictly for applications made after 2018. [LB543]

SENATOR GROENE: Oh, all right. [LB543]

SENATOR WATERMEIER: So it's pretty simple. We wouldn't want to try to claw back and reach back to anybody that's already signed a contract on a cap. Now my other amendment did reach back and put some reporting mechanisms in from people that had...companies that have actually signed contracts as far as the federal ID number and the unemployment, we just can't get...we can't match this data up between the Department of Revenue and the DED and the Department of Labor. We're just really scrambling because we just don't have what it takes to put those numbers together. And it still would be confidential. I would never see it, but we would have that confidentiality between the Audit Committee and the two departments. [LB543]

SENATOR GROENE: Has anybody looked at saying at least we collect your first 25 percent of your taxes so that you help fix the potholes too, and then everything over that we put towards your credits, so at least you pay something? [LB543]

SENATOR WATERMEIER: What do you mean, pay something? [LB543]

SENATOR GROENE: Well, it seems they're getting all of their taxes back plus all their payroll taxes. Throw in a little property taxes, I mean, they really... [LB543]

SENATOR WATERMEIER: Well, I don't think that would probably be a fair way unless they knew it up-front in the contract and like...is that what you're suggesting? [LB543]

SENATOR GROENE: Yeah, that we... [LB543]

SENATOR WATERMEIER: That a new Advantage Act would look in that regard that...I don't know. I haven't really thought that detail about it up-front. You're the mind master on that, Senator Groene. [LB543]

SENATOR GROENE: Everybody should pay a little tax. Thank you. [LB543]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR SMITH: Very good. I see no further questions. Thank you, Senator Watermeier for your opening on LB543, and again, I second what...echo what Senator Harr said was, thanks for your work on the Audit Committee on this issue. Appreciate it very much. We now move to proponents of LB543, proponents of LB543. Welcome back, Ms. Fry. [LB543]

RENEE FRY: Thank you. Good afternoon, again, Chairman Smith, members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. I had not planned on weighing in on this bill as it looked like primarily technical cleanup, but given the amendments that were laid out by Senator Watermeier, if those amendments were adopted, we would be here in support of that bill. As you've heard from us before, we think it's very important that we take a look at these bills...or the tax incentives, excuse me, to look and see if they're providing a return on investment. So anything that we can do to increase the level of analysis that we can do on these incentives, I think is worthwhile. And certainly Senator Watermeier's comments about how this would really help us look at crafting tax incentives moving forward, I think is incredibly valuable. I would agree with Senator Schumacher's comments that we should be looking at some sort of freeze of these programs. Would also certainly support caps, maybe not just on individual projects, but also in terms of how many credits can be taken in any given year. Senator Schumacher, you had asked about potential liability moving forward and the costs of these programs between LB775 and Nebraska Advantage, \$2.3 billion of tax credits have been utilized. And an additional \$959 million in sales tax refunds have been granted; \$4.2 billion of personal property value has been exempted, and we have currently on the books, potential future liability of \$902 million. So that is according to the Department of Revenue report. So with that, thank you for your time. I'd be happy to answer questions. [LB543]

SENATOR SMITH: I see no questions. Thank you, Ms. Fry. [LB543]

RENEE FRY: Thank you. [LB543]

SENATOR SMITH: Next proponent of LB543. Welcome. [LB543]

STEVE GLENN: Thank you. Mr. Chairman, my name is Steve Glenn, G-l-e-n-n. I'm a business owner and live in Pawnee City, Nebraska, District 1, Senator Watermeier's district. I am here because, quite frankly, I read in the newspaper that the average tax credit per employee was \$20,000 to \$300,000, and quite frankly, I was shocked, and as a taxpayer, I was offended. As a small business person, I just thought this is crazy. This is crazy to spend that kind of money for these tax incentives which ironically aren't creating them any jobs even. And proportionately, I think Senator Watermeier indicated it was five to one. As a small businessman I looked at it and said, what are the opportunities for the real creators of jobs in our state, which is small business,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

to access this and literally this isn't even addressing the issues of people that are creating jobs. And to you as the Revenue Committee, I stepped back, I'm going to show you my age now, but as you recall in the '70s when Governor Orr was the Governor, we had ConAgra who said I'm going to leave the state. And so what did we do, the State Chamber who I'm a proud member of and many of the Chambers who I'm a proud member of, the Lincoln and Pawnee City Chamber, supported this to address some of these major issues. Well, and at the time I think it was appropriate, but that was over, what, 40 years ago...30, 40 years ago. In today's environment this is not the appropriate tool and really I would hope that this committee would look seriously, similar to what Senator Schumacher said, we really have to say, is this thing worth the cost, hundreds of millions of dollars? And I say that respectfully to the Chamber and other large businesses in our state. It's not that we don't love them, but the economic return on our investment is very, very poor. And I would hope that this committee would consider...first, I'm here to support the bill, but I think realistically I would hope you would consider completely overhauling this or eliminating it. This committee is also looking at how do you cut...how do you cut income tax, and wouldn't it be better that we cut taxes on hundreds of thousands of businesses and individuals than take a hundred...carve out a hundred companies and give it to those hundred companies? Wouldn't it better we just said, stop the madness. Let's give this out to all citizens of Nebraska. This is hundreds of millions of dollars. And I am very proud to be a Nebraskan, very proud to have many businesses in here in Nebraska and I'm just...I'm amazed that we are literally spending money like this and I think our passion and our reasons were in the right place 30 or 40 years ago, but today you can't justify this. This is madness. [LB543]

SENATOR SMITH: Very good, Mr. Glenn. Thank you for your testimony. Questions from the committee? Senator Brasch. [LB543]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Mr. Glenn. I'm curious. What kind of business are you in and where are you located? [LB543]

STEVE GLENN: We have a...I own Executive Travel here in Lincoln, Nebraska, a company that's been on the Inc. 500, 5000 fastest growing companies for three years. We own a company in Syracuse, Nebraska, proud home of Senator Watermeier, Headwind Consumer Products that produces rain gauges and thermometers and we have other businesses, nine businesses in total that we operate, which by the way, none of them could even access these credits. [LB543]

SENATOR BRASCH: And are you aware that these are performance-based credits? They get the credit once they have...and it depends on number of employees and how many millions of dollars are invested. And also when Governor Orr implemented LB775, there were also other tax incentive bills for smaller businesses, for rural-based...there's LB773. I can't remember all the seven-sevens, but the state at that point was experiencing out-migration as well as business out-

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

migration and we were competing with Kansas who was offering free everything to Kawasaki, for example, to move there. Kawasaki was one of the businesses that came. Union Pacific had broken ground already in St. Louis. So it was desperate times, I think, and I don't know if that is to your point, but I think we're getting back into an era of an economic downturn. So I..what is your suggestion? What is the solution here, just stay or go? [LB543]

STEVE GLENN: First of all, I want to applaud Senator Watermeier for saying, let's be able to measure the effectiveness of it. Let's deal with that. But more importantly, I don't think...I think this is a 30-year-old tax act that needs to be brought into the 21st century and the jobs are being driven by small business. And I say that respectfully to the large businesses which we're certainly pleased and blessed to have in Nebraska, but if you want to drive new jobs, we'd better have some kind of program directed at small business. And quite frankly, Nebraska doesn't have anything...but we don't have anything. [LB543]

SENATOR BRASCH: There's a microenterprise funds, you don't... [LB543]

STEVE GLENN: I'm very familiar with it, the complexities of it, the ease of use of it, the access to it, is almost impossible. [LB543]

SENATOR BRASCH: And LB775 has had different tiers added. It has changed since its origination in 30 years, but it is not exactly the same bill and I do believe there are small business incentives and entities to help main street businesses. But what you're...again, you're believing it did not help your business and therefore, you believe that we need to introduce something or just let the economy close doors. [LB543]

STEVE GLENN: The best thing I think you could do is ax this and provide tax relief to all businesses and small businesses and individuals. Seems like that would...if the issue is we're an overtaxed state and we can take hundreds of millions of dollars, if not billions of dollars, and direct it back in the form of lower taxes, I think that would affect us all. It's very simple too. It's as simple as a guess, lower the tax rate. So, and perhaps I'm too simplistic, but the point is, when I heard that we were spending \$20,000 to \$300,000 per job, I said, that's crazy. We can't let that happen. We don't have that kind of resource here and the ROI, I'd be...I'm looking myself in the mirror and say, how can I let that happen. So that's why I'm here today is... [LB543]

SENATOR BRASCH: I appreciate your coming forward. I just...you know, you're absolutely correct in, you know, how do we help everyone and I don't have any other questions, so thank you. [LB543]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

STEVE GLENN: Thank you. [LB543]

SENATOR SMITH: Senator Groene. [LB543]

SENATOR GROENE: That pretty much answered my question, but you said you're member of a Chamber at...what, communities, Lincoln? [LB543]

STEVE GLENN: Pawnee City, Lincoln, State Chamber, and... [LB543]

SENATOR GROENE: Do you know how many members there are in Pawnee City as small business people? [LB543]

STEVE GLENN: Oh, there's probably a dozen. [LB543]

SENATOR GROENE: About Lincoln, do you...? [LB543]

STEVE GLENN: Lincoln, I think has 1,400 or 1,500 members and great organization. [LB543]

SENATOR GROENE: And they were all businesses and... [LB543]

STEVE GLENN: Yeah, they're in businesses around...and I don't represent them, sir. [LB543]

SENATOR GROENE: So that's like that all over the state, right? [LB543]

STEVE GLENN: Yeah. [LB543]

SENATOR GROENE: So how many of them businesses have time, overburdened with taxes, trying to hire new employees to fill out forms all the time for a tax credit? [LB543]

STEVE GLENN: I literally spend hours at the Department of Economic Development saying, I started a company in Syracuse, Nebraska. [LB543]

SENATOR GROENE: You didn't have a lawyer and a lobbyist to do that for you? [LB543]

STEVE GLENN: I'm a small businessman, okay, and that's the other problem is I spend hours over there saying I'm starting a company in Syracuse, Nebraska. [LB543]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR GROENE: People that are getting these benefits have that and have multiple ones to do that for them. [LB543]

STEVE GLENN: Yeah, and I said, how can I apply for something? How can I get a benefit? I keep reading about all of our great programs and they said, I'm sorry, I'm sorry, I'm sorry. And so...and I'm not here for sympathy. I'm proud to be here. We're fortunate to live in Nebraska. I will stay in Nebraska, continue to grow in Nebraska, but there is no good program for small business. I have service companies, manufacturing companies, importing companies, exporting companies. I have Subway restaurants, so I'm across the board. And what I'm saying is, is there are no incentives that have application...practical application for a small business in Nebraska and I say that respectfully. I think people's intentions are honorable and they're trying, but it's just not there. [LB543]

SENATOR GROENE: So, I guess, the Johnny Carson Carnac answered the question for your answer already is, wouldn't it be better just to give everybody a tax break so we don't have to play this crony capitalism and who gets...who knows who and who gets the tax break. [LB543]

STEVE GLENN: I know that's a political issue this year and I'd say, yes. Let's keep it simple. If you lower my taxes, at least I can access something in that and I think that sets a tone for small business. Now here the other difficulty is the C corporations which are corporate taxes and most small business it flows through as a...on their own personal income tax. And so, really, if you're going to affect a small business person, it's not going to be in the corporate tax world. It's going to be in the individual tax world. So that's how most small businesses, they have flow-through as an S corporation, flow through taxes, and I'm probably speaking to the choir here, aren't I with tax issues, so I apologize. [LB543]

SENATOR GROENE: Thank you for your answers. [LB543]

SENATOR SMITH: Yeah. Well, Mr. Glenn, I think the folks around the table here, in fact, I was just looking at all of us, I think we're all either business owners or sole proprietors, so we get it with apply to small business and you're absolutely right, small business folks, they don't have the resources to navigate some of the complexities that you're talking about. And I think where we are today has a lot to do with the corporate rate structures that we have in place and we've had...in where to create jobs and attract businesses, we've had to go to other methods of doing that. And I think you're touching on something that's really a serious problem that we're going to have to address going forward. But for you, I appreciate you as a small business person taking the risks, sticking your neck out there, going out on the limb, and helping to create jobs for our state. So thanks for what you do. [LB543]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

STEVE GLENN: Thank you very much. [LB543]

SENATOR SMITH: All right. Next proponent of LB543, next proponent. Seeing none, opponents? Anyone wishing to testify in opposition to LB543? Welcome. [LB543]

RON SEDLACEK: Good afternoon, Chairman Smith, and members of the Revenue Committee. For the record, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. To save time, I've been asked to represent also not only the Nebraska Chamber of Commerce, but also the Lincoln Chamber of Commerce, the Greater Omaha Chamber of Commerce, as well as the Nebraska Bankers Association. Our taxation counsel met and reviewed the legislation and it's one of those issues where you can come in on almost any side of the bill. Could have come in neutral, could have supported the concept of the legislation, but really the heartburn is over particular reporting requirements that are new and above the contract entered into when first entering into agreements in the Nebraska Advantage Act. And we've had a number of our members who talked to us about particularly the items on page 7 in regard to reporting for each taxpayer, and said, I'm not sure we could ever comply with this the way it's written. Understand what's wanted and we would like to see good metrics as far as the program is concerned and for the auditing program, but this is putting a lot of burden on these businesses and they're not sure they can actually do it. For example, see the number of hours worked at a project location for each employee. If you're an exempt employee under wage an hour, you're not keeping track of hours and they can be varied from week to week, so you're talking about your executive exemption and administrative professional, some IT, highly compensated outside sales persons. And they can be working one week 60 hours and another week ten or 20, who knows. But this would essentially put them on a time card and that is probably not the way things happen, particularly when you're also shifting employees from one state to the next, or there's a revolving door of some kind and this is an annual report. March 30th, you report those on that date or do you report those in and out of the door throughout the entire year. So, what we're asking is, certainly there needs to be some clarification. The...and take the conversation aside some other time, we haven't seen the amendment so I cannot speak to the amendment at this point and certainly don't have any authorization to speak on behalf of any of the clients that I just talked about or the entities I just talked about until they've actually seen or reviewed the amendment. In regard to the issue that was raised, and certainly talked to the gentleman before for clarification, but we've got a number of tiers in Nebraska Advantage. And it gets to be a little bit misleading when you have, for example, a data center with an extraordinary amount of investment moneywise, but maintaining primarily 30 or more employees where those investment tiers where you maintain employment, for example, in renewable energy and so on. When you extrapolate the credit for investment and then say, well, only 30 jobs were created, well, there might have been \$300 million in investment, so when you do the math, then it looks pretty haywire. And if you did just the one tier, tier 3, that's zero investment but 30 employees, well, then you would have much more accurate figure is to what's going on here. But if you have, like the first tier is \$1 million and ten

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

employees, that applicant may choose to invest up to the \$3 million. So \$3 million in investment credit, they did add ten employees, so you divide that out and say, gee, about three million an employee...or \$300,000 an employee, that's not how the metrics are or they should be utilized. So, that would answer that question, I hope. [LB543]

SENATOR SMITH: Thank you, Mr. Sedlacek, for your testimony. I see no questions. Thank you. Next opponent of LB543. I see no further opponents. Anyone wishing to testify in a neutral capacity on LB543? Neutral. Welcome. [LB543]

RON TILLERY: Good afternoon, Senators. My name is Ron Tillery. I'm the executive director of the Phelps County Development Corporation, an organization... [LB543]

SENATOR SMITH: I'm going to ask you to spell it for us, please. [LB543]

RON TILLERY: Ron, R-o-n, Tillery, T-i-l-l-e-r-y. I hadn't intended to testify today, but I wanted to offer a perspective from local practitioners standpoint of the value and importance of the economic development assistance packages available to Nebraska. Oftentimes, economic development is a game of elimination and, oftentimes, projects or consultants to projects will consider states and local areas based on the availability of certain incentives or assistance packages. Absent those valuable assistance packages, we may not even make it to the first round of elimination. We may not be considered. So I just wanted to emphasize the value of having a statewide economic assistance strategy for the state. That's not to say that there are not areas where it can be improved and certainly from our perspective we would like to see additions to the assistance packages that emphasize Nebraska's advantages in producing commodities so that we market and attract investment into the state that adds further value to the commodities that we produce. We need something that is in bright red letters, neon letters, that we're open for business. Well-designed assistance packages can do that. To Mr. Glenn's comments, we would invite Mr. Glenn to consider Holdrege or any community in Phelps County because we have an array of local assistance packages that are supported by LB840, a local option Economic Development Program in Nebraska that supports both the state level incentives and regional incentives. And we also have Tax Increment Financing and other things like that that can support smaller investment types of projects. So there are tiers of assistance available to investors and job creators in the state. But I just wanted to emphasize how valuable the Nebraska Advantage Act is, not just when we're talking about things at the 30,000-foot state level, but also to communities of our size in rural Nebraska. Thank you. [LB543]

SENATOR SMITH: Thank you, Mr. Tillery. Any questions for Mr. Tillery? I see none. Thank you. Others wishing to testify in a neutral capacity on LB543? Seeing none, we invite Senator Watermeier to close on LB543. [LB543]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR WATERMEIER: All right. Thank you Chairman Smith. I appreciate the conversation. I did have a conversation with Ron Sedlacek just about noon today about some of the concerns they have on the bill. A lot of those things I will tell you that they are reporting in some degree and when we talk about location, he had referred to specifically a part in the bill there that they're reporting, but it's only for the ones that they would qualify for. We're going to be asking them a little bit more in more detail about where the job is actually at. So a lot of these reporting mechanisms are...we're just getting started on where we need to be at. And I have a list of what some of the other states are doing and they're quite comprehensive and I meant to make a copy of that. I think what I'll do is make a copy of what some of the other states are asking for and requiring of and I'll send that to you. I just close with this idea. You know, we don't know what's really going on with these incentives and as the previous testifier just said, in the neutral capacity, Senator Groene come to my community, you can get TIF and you can get Mainstream and you can get Advantage Act. We'll help you with all those things. We don't really have a good way to measure those and right now, as of the end of 2014, we had issued a \$736 million in tax credits because of the Advantage Act, \$736 million in seven or eight years. Sixty-five percent of those went to investment tax credits. When that Advantage Act was designed as a jobs growth, jobs creator, well, now we find out that 65 percent of that is actually investment in...just a dollar investment. That's why the dollar per labor, dollar per hour, dollar for employee is so high because we can't struggle to figure out what the value of that employee really should be. Is part of that investment credit should be involved? We know that part of the jobs will come to Nebraska anyway. That's a proven factor. So we need to figure that out as well. The 65 percent investment credit, only 16 percent in compensation credits, 12 percent in sales tax credits, and 8 percent in property tax credits. But we have yet to figure out a good way to measure all of that mix and we've got to get there. And there's some things about LB543 that you would like to change, I'd be open to suggestions, but we really need to get this in place. We need to get it up to speed and get it in the Audit Office and let them build, do it. So with that, I'd be welcome to...if there's another suggestion on amendments that you want, I'll be willing to do that and I'll get you that paper that shows what the other states are doing, so. Thank you, Mr. Chairman. [LB543]

SENATOR SMITH: Thank you, Senator Watermeier. I see no questions for you. I appreciate that. Thank you for your closing on LB543. We move now to our next bill of the day, LB565, to be introduced by Senator McCollister related to requiring the posting of tax incentive information under the Taxpayer Transparency Act. Welcome, Senator McCollister. [LB543]

SENATOR MCCOLLISTER: (Exhibits 1-2) Thank you, Mr. Chairman. Good afternoon, Chairman Smith and members of the Committee. I'm John, J-o-h-n, McCollister, M-c-C-o-l-l-i-s-t-e-r, and I represent the 20th Legislative District in Omaha. I'm here today to introduce LB565 and offer AM650 for the committee's consideration. LB565 would move Nebraska one step closer to an open and transparent management of tax receipts that our citizens have entrusted to us. The bill as introduced would focus on Nebraska's 13 economic development subsidy

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

programs. The handout you received lists the tax incentive programs in the green copy and shows the ones that would be removed by AM650. The handout also identifies the information to be reported to the State Treasurer for inclusion on the Taxpayer Transparency Web site. LB605 makes the impact of these programs transparent by requiring the following information to be added to the State Treasurer's Tax Transparency Web site: The benefits received by the recipients of the programs; the benefits intended to be produced by the recipients of the programs; the benefits actually produced by recipients of the programs in the form of newly created jobs and economic growth; the subsidies recouped from the programs with claw back provisions. Sections 1 and 2 of the bill would simply make it clear that the Tax Commissioner and the staff at the Department of Revenue would not violate privacy laws that protect taxpayer information from disclosure. When the Department complies with provisions of the Taxpayer Transparency Act, provisions would allow the specified information about economic development subsidy programs to be posted on the Taxpayer Transparency Web site. The sections that follow reference the programs that would provide information to the State Treasurer to be added to the Taxpayer Transparency Web site. Languages added for each program to create an exception of confidentiality so the information can be disclosed. This gets us closer to the heart of LB565. Last year the Legislature passed into law, LB851 to broaden the Taxpayer Transparency Act. Prior to the passage of LB851, financial records from all state agencies and the University of Nebraska were included on the Transparency Web site, but financial information from a variety of quasi-public entities was not. LB851 required that the checkbook level financing reporting from quasi-public entities be added to the State Treasurer's Web site. LB565 would expand the State Treasurer's Web site to be...include facts about Nebraska's tax incentive programs listed in Section 11 of the bill, and on handout I provided. Last year the Legislature's Performance Audit Committee issued a report on Nebraska Advantage Act which gave rise to some concern about our tax pay...or our tax incentive programs. LB565 would give citizens the ability to see for themselves how much these programs cost and what they, the taxpayers, are receiving for their money. At the request of the Nebraska and Omaha Chambers of Commerce, and on behalf of the programs that would be affected by this legislation, the following changes to LB565 as introduced have been accepted and included in AM650. They are, first: Six of the programs would be stricken from LB565 because they are either no longer accepting applications, or a sunset date is in effect. Second: The term incentive payment is replaced with tax credit or tax refund to more accurately reflect the nature of the benefits granted to the applicants of our Tax Incentive programs. Third: Aggregate instead of individual reports would be allowed for recipients of R&D credits from the Nebraska Advantage Research and Development Act. This program is intended to encourage product research and development in the state. The state credits are 15 percent of the federal R&D credit, thus providing information would make it possible to draw conclusions about a recipient's federal R&D. Fourth: Date of reporting dates would be changed to better reflect when the program data is actually available to be reported. As I close, I would like to thank Senator...or Treasurer Stenberg for his close collaboration on these two bills that we've done, one last year and the one this year, and also my LA, Sherrie Geier, for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

the work that she's done on this particular bill that we're still making changes in the bill at quarter of noon today, so. I know, it is a good effort by both those individuals. Thank you, Mr. Chairman. I'm happy to take some questions. [LB565]

SENATOR SMITH: Thank you, Senator McCollister, for your opening on LB565. Questions for Senator McCollister? Senator Groene. [LB565]

SENATOR GROENE: Chairman. Some of these other ones that you're striking are disappearing, could we have been just talking about the Angel Act and the Angel Investment Tax Credit Act. I didn't realize that had a sunset in it. [LB565]

SENATOR McCOLLISTER: It did not, but there's some sensitivity about it providing that information because it actually disclosed the names of some of the investors and there was some discomfort with that. [LB565]

SENATOR GROENE: Have you ever gone to a Web site and seen every single dollar a farmer gets for... [LB565]

SENATOR McCOLLISTER: I have, sir. [LB565]

SENATOR GROENE: Could you tell me what the difference is here? [LB565]

SENATOR McCOLLISTER: Well, we wanted to get a bill without serious objections from the Chambers and, you know, if this committee has the power to change that I suppose, but we wanted to get a bill out and they were uncomfortable disclosing that information. [LB565]

SENATOR GROENE: If you're uncomfortable, don't take the tax credit. Pay your taxes. That's maybe a better idea. [LB565]

SENATOR McCOLLISTER: That's correct. [LB565]

SENATOR GROENE: Thank you. [LB565]

SENATOR SMITH: I see no additional questions. Thank you, Senator McCollister. Will you remain for closing? [LB565]

SENATOR McCOLLISTER: Yeah, I'd like...I'll sure try. Thank you, Mr. Chairman. [LB565]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR SMITH: All right. We move to proponents of LB565. Welcome, Treasurer Stenberg. [LB565]

DON STENBERG: Thank you, Mr. Chairman. And for the record, Mr. Chairman, members of the committee, my name is Don Stenberg, D-o-n S-t-e-n-b-e-r-g, Nebraska State Treasurer. I want to begin by thanking Senator McCollister for bringing this bill. I've been working with him on state transparency issues going back to when he was executive director of the Platte Institute, so we've collaborated several times. Our transparency Web site, when I took over as State Treasurer, was rated by the public interest research group at a D. It is now an A-minus. And it's not...it's referred to as a Treasurer's Web site, but it technically is not. It's the state of Nebraska's Web site and the State Treasurer is responsible for the management of that Web site and is separate from the State Treasurer's Web site. I'm just going to emphasize a few things. Senator McCollister did an excellent job, I think, of explaining the bill so I would just emphasize a couple of things that I think are particularly important. We both worked very carefully with the State Chamber and the Omaha Chamber trying to resolve all of their concerns about various language and various provisions, and as far as I know the amendment that Senator McCollister has offered here to the committee today does resolve those issues at least as far as I understand them to be. This, I think, would be a big step forward for Nebraska. A number of other states are now disclosing this type of information on their State Transparency Web sites. Currently, the amount of information that's required to be reported publicly by the State Tax Commissioner for these tax incentive programs varies from program to program. Various different things are disclosed for different programs. And so what we did is we took what we thought was the best program in terms of disclosure right now of the Nebraska Advantage Act. And four things are currently made public under that act: The name of the company, the location of the project; the planned investment; and the planned employment. What this bill would do would be to add three additional items of disclosure and then basically require that all of the current programs that haven't sunsetted, in other words programs that will not accept new applications under current law. The three things that would be added would be the actual amount of money invested by the company; the number of new jobs actually produced by the company; and the amount of tax credits or tax refunds, if any, recouped from the taxpayer for failure to meet statutory goals. So, pretty much anything else I had to say would be repetition of what Senator McCollister's excellent presentation was, so with that I'll be happy to answer any questions, but I think with AM650, there's pretty widespread support or at least lack of opposition for the bill. [LB565]

SENATOR SMITH: Very good. Thank you. Do we have questions from the committee? Senator Harr. [LB565]

SENATOR HARR: Thank you. And thank you, Mr. Chairman. Thanks for coming down here, Mr. Treasurer. Was this bill brought at your behest? [LB565]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

DON STENBERG: Yes, it was. Well, it was a collaborated...as I said, Senator McCollister and I have been working on transparency bills together for...since, I think my first year as State Treasurer. So it was a...we actually talked about bringing this bill two or three years ago and we decided we wanted last year to bring the bill for the quasi-public agencies and take that step first and bring this one. So this really goes back to conversations, Senator McCollister and I had at least two, probably three years ago. [LB565]

SENATOR HARR: Okay. Thank you. [LB565]

SENATOR SMITH: Senator Groene. [LB565]

SENATOR GROENE: Thank you, Senator Smith. So you'd be able to search it by name or company name or if they're getting any incentives like you can a farmer on a Web site? [LB565]

DON STENBERG: That would be the intention, yes, sir. [LB565]

SENATOR GROENE: And what about tying in other reports like the Revenue Department's on...does a really nice report on TIF so that people went there and they could...because it's hard to find that report on Revenue unless you know you're looking for it. [LB565]

DON STENBERG: It is. [LB565]

SENATOR GROENE: It's a very good report, but it's hard to access unless you know exactly what you're looking for. [LB565]

DON STENBERG: It is. We do on the State Spending Web site, which is our transparency Web site, StateSpending.Nebraska.gov, we do have a link to that report from the transparency Web site, but I agree, it is hard to find. It is a great report and it is a little bit difficult to find. [LB565]

SENATOR GROENE: Yeah, but you could tie it into this area where somebody wanted to do TIF, they could just go right to a name and have the report. [LB565]

DON STENBERG: I will check those, yeah. We will look into that. [LB565]

SENATOR GROENE: That would be nice. Thank you. [LB565]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR SMITH: I see no further questions. Again, thank you, Treasurer Stenberg, for your testimony. [LB565]

DON STENBERG: Thank you. [LB565]

SENATOR SMITH: We move to the next proponent of LB565. Welcome back. [LB565]

RENEE FRY: (Exhibit 3) Thank you. Hello again, Chairman Smith and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. LB565 would provide Nebraskans with a comprehensive picture of state support for incentive projects that aren't currently made public. The reporting required under LB565 complements other efforts to increase tax incentive transparency. Good Jobs First has a Subsidy Tracker that provides an ideal model of how this information could be presented. For example, their database shows that more than \$161 million in Nebraska incentives for ConAgra since 1997 have been received, and \$57.4 million have gone to Nebraska Crossing Outlet Mall, which includes tax increment financing, sales tax rebates, an occupation tax, and direct investment in the project by the city of Gretna. In 2015, the Governmental Accounting Standards Board, otherwise known as GASB, issued Statement Number 77 which compels government entities that adhere to generally accepted accounting principles to report the value of tax abatements in their budgets. GASB notes that this reporting will better enable citizens to understand (1) how tax abatements affect a government's future ability to raise resources and meet its financial obligations and (2) the impact those abatements have on a government's financial position and economic condition. The statement was issued in response to policymakers and citizens who voiced the need to obtain information on such abatements that were being unmet, and that relatively few states required the disclosure of such information. There is much more transparency in what the state spends in comparison to what it doesn't collect. We can review how the Legislature chooses to allocate money among state agencies for operations, construction, and government aid, and we can review their outlays in great detail by reading reports published by State Accounting, such as the annual budgetary report and the monthly fund summary reports. Tax credits, which are a form of state spending, are in many cases extended anonymously, which prevents taxpayers from fully accounting for how the state is spending money through the tax code, which must be made up through taxes levied on the remaining taxpayers. The combination of the Tax Expenditure Report, evaluation by Performance Audit, and LB565 would give policymakers and the general public the information they need to make fully-informed decisions about the prioritization of state resources that is not currently available. This legislation would highlight cases where one project qualifies for benefits from multiple incentive programs. Some of the incentive programs, such as the Mainstreet Revitalization/ Historic Tax Credit and the New Markets Tax Credit, are complements to the federal versions of these programs, and are subject to definitions set forth by the IRS. And while it is not currently known the extent to which projects qualify and benefit from multiple programs at the state level,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

the GAO has reported on the incidence of this at the federal level. And as I said in earlier testimony, GAO reports that 62 percent of New Markets Tax Credit projects also received other public support from federal, state, or local sources from 2010 to 2012, most frequently used with the Historic Tax Credit. GAO writes, "The use of multiple other government programs raises questions about unnecessary duplication," and that the Treasury Department "does not have the controls to limit the risk of unnecessary duplication in government subsidies or above market rates of returns". While LB565 would not directly limit duplication of incentives extended by the state, it does provides the information necessary to determine the extent that it occurs. As a means of further expanding the transparency of public benefits extended to projects receiving subsidies, we would recommend amending LB565 to require firms receiving state tax credits to disclose the amount of local support received from TIF, as well as federal support through tax credits and other forms of financial assistance. Thank you for your time. I'd be happy to answer any questions. [LB565]

SENATOR SMITH: Thank you, Ms. Fry. Questions from the committee? I see none. Thank you. [LB565]

RENEE FRY: Thank you. [LB565]

SENATOR SMITH: Next proponent of LB565. Seeing none, we move to opponents, those wishing to testify in opposition to LB565, opponents. Seeing none, those wishing to testify in a neutral capacity. Mr. Young, got up here quickly. [LB565]

JOSEPH YOUNG: I just didn't want to...last time you called for people who were opposing the bill and I didn't get up quick enough, so I learned my lesson. Chairman Smith and members of the Revenue Committee, for the record, my name is Joseph Young. It's spelled J-o-s-e-p-h Y-o-u-n-g, and I'm here today testifying on behalf of the Nebraska Chamber of Commerce and Industry, the Lincoln Chamber and the Greater Omaha Chamber. First I want to thank Senator McCollister and Treasurer Stenberg and their staffs for working with us on some amendments to this bill and it was not the smoothest process, so I do want to let them know that I appreciate their willingness to work with us on this. When we first sat down to talk about this bill in January with the Treasurer and the Senator, we were really just trying to fact-find and see what information we're trying to get. And as a result of that meeting, I think we all agreed--and I don't want to speak for them so Senator McCollister can rebut on his closing if he wants--but, we all kind of agreed that the Nebraska Advantage Act was actually a pretty good model for transparency and that there just really wasn't much in the way of any transparency on the other incentive legislation. So what we were trying to do in this process was to take those provisions in Nebraska Advantage or something like them and just move them down into all of the other incentive programs that at least still exist today. So I do want to say that we appreciate that as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

well. We're neutral on the bill. We don't oppose it. That said, I do think, like I said, the Nebraska Advantage Act does have pretty good transparency provisions relative to the rest of the country. They're not the best and they're not perfect but it is...you know I can get on. It takes me four clicks to get to the Nebraska Advantage reports on which companies are receiving what benefit on the Department of Revenue's Web site. So it is there, it's not all that difficult to see. We're not trying to hide anything but we do think that the current provisions are appropriate. So with that, I'd be happy to take any questions. [LB565]

SENATOR FRIESEN: Thank you, Mr. Young. Any questions from the committee? Seeing none, thank you for your testimony. [LB565]

JOSEPH YOUNG: Thank you. [LB565]

SENATOR FRIESEN: Any others wishing to testify in a neutral capacity? Seeing none, Senator McCollister, wish to close? [LB565]

SENATOR McCOLLISTER: Thank you, Vice Chair and members of the committee. I think you can easily recognize this has been a labor of love and Treasurer Stenberg and I have, in fact, worked on this for at least three or four years and I'm glad to see that we've made this final step. However, Nebraska.gov is a continuing project. We'll continue to refine the site, make it better, add certain things that make it easier to use. So it's a...this doesn't really represent the improvements we hope to make in the Web site but simply represents some incremental progress that we've made. I thank you very much for your attention and would hope that you could advance this to General File. [LB565]

SENATOR FRIESEN: Thank you, Senator McCollister. Any questions from the committee? Seeing none. [LB565]

SENATOR McCOLLISTER: Thank you. [LB565]

SENATOR FRIESEN: Thank you for your bill. With that, we will close the hearing on LB565 and stand at ease for a little bit while somebody shows up here. [LB565]

EASE

SENATOR FRIESEN: Get this moving. So with that, we will open the hearing on LB374 and welcome Senator Schumacher. Go ahead. [LB374]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR SCHUMACHER: Thank you, Senator Friesen, members of the Revenue Committee. I was going to say the Welfare Committee, but I just got out of the Welfare Committee but maybe there's some welfare in this committee too. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, here today to introduce again LB374. LB374 got a little bit of an interesting history because I introduced virtually the same bill, at least half of it, a year or so ago and it came back with \$116 million fiscal note. And this year, the...that was in the negative. And this year, it came back with a \$40 million fiscal note. The difference between the two, \$120 million is because this year eliminated some of the credit programs, most of the business credit programs. So we know now a figure of what that's projected to cost us, \$120 million a year in credit programs. And if the audit report from the Legislature's Audit Committee was accurate, we're not really sure how much good they do us. We know that very few businesses get to eat out of that trough of those credit programs. Very few. We know that the great bulk of business investment in this state, the great bulk of entrepreneurial activity in this state, the great bulk of employment in this state is done without even getting a smell of any of those programs. We know also that the real engine for capital organization is the ordinary corporation, the C corporation. That's how you bring in outside capital. That's how you use the fancy fiscal and financial tools of equity investment. That is the vehicle by which business can really grow. We also know that we have a really, really bad situation when it comes to the corporate income tax; 7.8-something percent of corporate profits go to Nebraska. That's on top of a whole big chunk of what is, 30-some percent that goes to the federal government. Way too big a piece of the action of corporate profits going to taxes. Now, maybe, the federal government is going to do something about it, maybe not. We can do something about it. Now we could just plain do away with the Nebraska corporate tax. It would cost us somewhere around a couple hundred million dollars. That price tax is quite a bit higher than \$40 million. It would sure simplify life. Accurately distributed across all corporations, everybody gets a bite of it if they pay a corporate tax. No extra paperwork. No long lines over at the Revenue Department and lawyers and accountants and everything else trying to do applications. No audits to see whether or not you met the standards or didn't meet the standard. Just simple elimination of the corporate income tax. This puts a wrinkle on it that also has an economic incentive element to bring investment into Nebraska. What this says is, okay, we're still going to charge you the tax, but for every dollar tax we charge you we're going to give you a dollar of credit. And here is how the dollar of credit is going to get spent. You're going to give half of it to your employees, and you're going to give half of it to your stockholders. Now, we all know that a credit doesn't do you a darn bit of good if you don't have a tax to offset it against. So if you don't have any Nebraska income, any Nebraska investment, dear shareholder, or dear employee, it doesn't do you any good and it doesn't cost us anything. On the other hand, if you do, you can use the credit against your taxes. It's a way to give a bonus to employees of profitable companies and a way to get a bonus to investors in profitable companies and a way to say to out-of-state folks who own interest in those companies, you want to take advantage of your credits, invest in Nebraska, have some Nebraska income, causing investment in Nebraska. It also eliminates these complicated uncertain business investment incentives that we have in which

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

very few people are getting benefit. And what stronger way to say in business recruitment than you know, in Nebraska we don't keep your corporate tax, you give it to your investors, you give it to your employees. Simple, easy, and to have that kind of a spin on business attraction for a mere cost of \$40 million instead of these God-awful complicated things that we've got ourselves messed up in. That we will forever, for years and years, wonder whether we're doing good, whether or not the preacher is getting any souls into Heaven or not. This is easy. This is simple and this is a way that we can do something totally creative and if we do it, it wouldn't surprise me one bit that we'll see other states doing monkey see, monkey do off of this idea. That's my opening, that's my story. I'll be happy to take any questions. [LB374]

SENATOR FRIESEN: Thank you, Senator Schumacher. Any questions from the committee? Wow! I've got to ask one at least. [LB374]

SENATOR SCHUMACHER: Yeah, I know. [LB374]

SENATOR FRIESEN: I mean, you know, so you say get rid of the Nebraska Advantage Act, get rid of all these other convoluted programs we have that we have to have an Audit Committee and work forever to try and make it so that we can even audit anything, and you simplify it down to this. What...so the fiscal note on it is so small and yet we're spending so much on the Advantage Act, how do you...so you account for the difference in what? [LB374]

SENATOR SCHUMACHER: Well, the savings from phasing out the Advantage Act and all the other freebie acts is offset against the \$200 million roughly of corporate income tax, and so this actually costs us \$40 million more, but it includes a numerable more businesses, numerable larger piece of investment, and numerable more employees than any of those other limited acts that cost so much. [LB374]

SENATOR FRIESEN: Your difference was taking into account by the Advantage Act already? [LB374]

SENATOR SCHUMACHER: Right. Advantage Act and the other, what I call freebie acts. [LB374]

SENATOR FRIESEN: Okay. Any other questions? Senator Groene. [LB374]

SENATOR GROENE: So why don't we just make it real simple and say if you start a new business you get, for the first ten years you don't pay corporate income taxes or you phase it down per year for ten years, you don't pay any for the first two years, next couple of years you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

pay 20 percent, and then we say you don't pay any property taxes. They get a refund for the first five years and all new construction, you get rid of all the lawyers and lobbyists and forms, why don't we just do that? [LB374]

SENATOR SCHUMACHER: Well, Senator, I went through a pretty decent law school to learn how to beat those systems because there are ways in which you can...if you have the ten years of free ride, I'll bet you I can figure out how to transfer that business operation to a different entity and take another ten years when my first ten years is up. And this... [LB374]

SENATOR GROENE: It must be a new business and new employees that has to be. [LB374]

SENATOR SCHUMACHER: Well, you know, it's just a matter of how you slice and dice the deck. And so I think that there would be a fair amount of maneuvering, just as there is a fair amount of maneuvering under the Advantage Act and all these other acts to try to get two and three bites of the apple. And that one would be kind of fun because it would take a little bit of creativity but I betcha I can get a second ten year bite. [LB374]

SENATOR GROENE: That...what we're doing now, we don't know they're doing it, they're just doing it because it's so complicated, but at least we would know. [LB374]

SENATOR SCHUMACHER: You ever wonder if it was intended to be that way? [LB374]

SENATOR GROENE: I thought it was always, all these bills were written for a lawyer-employment act. [LB374]

SENATOR SCHUMACHER: They are. (Laughter) [LB374]

SENATOR GROENE: Thank you. [LB374]

SENATOR FRIESEN: Thank you, Senator Groene. Senator Lindstrom. [LB374]

SENATOR LINDSTROM: Thank you, Vice Chairman. There are different tax credits that we worked on the last several years in response to competing with other states. If we were to eliminate these, what do you think the ramifications would be as far as our inability to compete, if we're not being able to incentivize some businesses or target some businesses to come to Nebraska? [LB374]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR SCHUMACHER: I think we might be more competitive because the average ordinary you-and-me style business, we aren't touching these credits now. We're not eligible because we don't promise to employ 100 people. We only promise to employ three people and we don't count. On the other hand, the kind of businesses that might work well in our business ecosystem are smaller businesses. If you can say to them basically, we don't have a corporate income tax, come here and grow here, and you don't have to file any papers, stand in any lines, we just basically don't have one. You come here, you got income here, offset it against your tax, be happy, be merry, and go on. I think we're actually more competitive and I think other states probably are pulling their hair out just like we are trying to figure out whether they're getting their monies worth. They're probably facing budget crunches just like we are. They're probably getting the same song and dance from the various associations saying, oh, gee, let us keep our special deals. They're probably just as sick of it as we are and this is simple. Simple is good, particularly in the context of our term limited Legislature where it's really hard to figure out which way is up after you've been here six, eight years, much less after you've been here two, four years, and are expected to make decisions and you just really, you know. I've been there, done that and I still don't understand what's going on. [LB374]

SENATOR FRIESEN: Thank you, Senator Lindstrom. Would you say that there are any of the subchapter S or LLCs out there would reform under the C corp to get the advantage of this? [LB374]

SENATOR SCHUMACHER: You know that would be a wonderful thing if it happened, because if it happens one of the problems with our business structures is we aren't terribly sophisticated, so we try to keep LLCs and these little sub S's. Those people don't play in the real financial markets. We have a lack of sophistication in how we organize our money in this state. A C corporation is what was designed and intended to be able to not only organize money, but also grow, also access the private equity markets, not only in debt, but in equity. I think this would be a real incentive to reorganize as a C company to take advantages of the real world of finance and really to move our state into additional level of sophistication beyond what we have now. Right now we have the reverse. By incenting them essentially to want to stay as S's or partnerships or LLCs and that's incenting them the wrong way because we have this ugly 7.81 percent corporate income tax that just...just bleeds you unless you figure out how you suck it out as an executive salary or something like that. But the real corporations, C corporations are the core of the American economy and we are incenting people right now not to use them in order to avoid this tax. Now, I grant you right now that federal tax is particularly onerous, but I think maybe we're realizing that that thing is too onerous, and that it's also causing us to have a lot of capital in the big, big corporations parked offshore and not being brought back here. We, probably, once we're great again, shortly, will be able to see a lesser corporate tax and this would dovetail perfectly with it. [LB374]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR FRIESEN: Okay. Any other questions from the committee? Thank you, Senator Schumacher. [LB374]

SENATOR SCHUMACHER: Thank you. [LB374]

SENATOR FRIESEN: Anyone wish to testify in favor of LB374? Please come forward. Welcome. [LB374]

STEVE GLENN: Hi, Senator. My name...Senator and members of the committee, my name is Steve Glenn, S-t-e-v-e G-l-e-n-n, and I would rise in support of Senator Schumacher's bill to change the system that we have today and I applaud him for the challenge to all of us to look at new ways to do things and it's very hard to change. We have a whole community behind the current tax incentive programs and they're honorable people, but I think we need a new system. I would encourage you to consider the changes. I think this year, if any year, is probably the year that you can say, maybe we ought to do something different. And I would certainly encourage you to do that, if you can. [LB374]

SENATOR SMITH: Thank you, Mr. Glenn, for your testimony. [LB374]

STEVE GLENN: Thank you. [LB374]

SENATOR SMITH: I see no questions from the committee. Thank you. Next proponent of LB374. Seeing no additional proponents, we move to opponents, opponents of LB374. Welcome, Mr. Sedlacek. [LB374]

RON SEDLACEK: Good afternoon, Chairman Smith and members of the Revenue Committee. For the record my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-ek, today here on behalf of the Nebraska Chamber of Commerce, the Greater Omaha Chamber of Commerce, and Nebraska Bankers Association, in opposition...although discussing with Senator Schumacher, said enjoy the concepts of the bill and the novelty of the bill. However as identified already by Senator Friesen, a great majority of our businesses are now operating as pass-through entities due to the LLCs or sub S corporations, LOPs and so on. This bill doesn't address their business situation nor for financial institutions who pay a financial institution tax. So they are...they would also be left out of this program and then also those that essentially pay the premium tax, our insurance companies pay a premium tax that offsets the corporate income tax so they would also be excluded from the benefits of the program. However...but we'd like...we would like to say and Senator Smith has identified, as well as Senator Lindstrom, the issue and that is our high corporate tax rate. And if we could have income taxes, both corporate and individual rates down,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

then the need for incentive programs to level the playing field or to provide for some competition between those states in which we compete, or either offering lower standard rates or in the tax area or other programs, we would be in a better position competing. So, yes, if we could lower our rates, definitely, and even would be nice were to repeal the tax, but we're not here to ask for that today. But just to state our position on this bill. [LB374]

SENATOR SMITH: Senator Groene. [LB374]

SENATOR GROENE: Thank you, Chairman. Ron, do you get involved in any of the corporate...I mean, the incentive packages when the corporation ones come here? Do we start...I guess my question, do we start in the hole already competing with other states because we first have to overcome that corporate income tax and we have to get to a level playing field, and then they want incentives on top of that? [LB374]

RON SEDLACEK: Yes, Senator Groene, it seems that when...at least when the site locators refer businesses to Nebraska, take a look at Nebraska. And it might be here are the reasons why there are so many other variables including state supported education systems cost them energy, environment, small town...you know, the environment, the work ethic. But then it comes down to also to taxation and when they see the high tax rates we have, the only way to get them taking up a look is often through these incentive programs saying, okay, here this is what they have to offer. Now, I would suppose even those states that don't have income taxes like in Texas, or South Dakota, Wyoming, neighbors, they still have to try to get a company to just see a little sizzle in the state, so to speak, or to hear that sizzle to bring them into the state. So they usually offer programs just to get a little bit more attention, to get a second look. But you don't have to go as deep because you have lower rates, you have a great tax environment. You're correct. [LB374]

SENATOR GROENE: We have to get to a level, to even first. [LB374]

RON SEDLACEK: That's correct. [LB374]

SENATOR GROENE: Then to start competing, then we have to throw more in. That's probably why we're third or fourth in the nation. I think the Tax Foundation said of gravy rated for tax incentives. [LB374]

RON SEDLACEK: I don't know the ranking. [LB374]

SENATOR GROENE: What's that? [LB374]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

RON SEDLACEK: I don't know the number. [LB374]

SENATOR GROENE: Thank you. [LB374]

SENATOR SMITH: Senator Friesen. [LB374]

SENATOR FRIESEN: Thank you, Chairman Smith. So when we talk about growing the state all the time, so I guess name me a better way to grow the state when you take those taxes and reinvest them back in your people or your...back in the state. The corporation still pays some tax, so to speak, but those tax credits get reinvested immediately and they are going to grow the company or help their employees, which reinvest in the state. Has anyone come up with a better plan? [LB374]

RON SEDLACEK: Well, getting into the details is the...is this the place to say, okay, corporation, we're going to give you a 100 percent credit of the tax paid, but this is how you're going to spend your money. The state government now is telling you, you need to spend 50 percent here, 50 percent there, but then someday it's going to be 25 percent, 25, and there's going to be a new program and it continues. So I'm not sure how far you want to get involved in telling a corporation where to invest its money and how and what percentage. [LB374]

SENATOR FRIESEN: So to me, I guess, a C corp, when I look at how they're structured and everything, they really pay very little to no tax. Everything they send out is dividends and gets taxed, otherwise they grow to reinvest in the company, make it bigger. So really, I would say their tax would be right near zero to start with, and so this is probably as close as you get. [LB374]

RON SEDLACEK: It's an idea to entertain. [LB374]

SENATOR FRIESEN: Thank you, Mr. Sedlacek. [LB374]

SENATOR SMITH: Further questions? Mr. Sedlacek, what type of taxpayer would these credits be available to? [LB374]

RON SEDLACEK: This would be those who are organized as C corporation. [LB374]

SENATOR SMITH: As C corps. So would this be...would this be an incentive for companies to change their designation? [LB374]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

RON SEDLACEK: It could be for some, not all. It depends on the owners and those they partner with, so. Some find it more convenient to operate as a pass-through entity and to avoid the extra paperwork, the extra levels of any attachment. The issues of how unitary or multi...you can go on into all the different corporate levels and how far you want to go. [LB374]

SENATOR SMITH: All right. Thank you, Mr. Sedlacek. Appreciate the testimony. Other opponents of LB374? Welcome, Mr. Bohrer. [LB374]

BRUCE BOHRER: Thank you. Good afternoon, Mr. Chairman and members of the Revenue Committee. Bruce Bohrer, appearing on behalf of the Lincoln Chamber of Commerce. For the record, the name is spelled B-r-u-c-e B-o-h-r-e-r. We are here in opposition to LB374. I guess some of the discussion has already kind of brought out some of the issues that we have. If we're going to want to cut corporate taxes, I think there's probably a simpler way to do it. It is a novel idea. I thought it was pretty interesting to just hear Senator Schumacher explain it and think through some of the different ramifications of it. I think the other thing in this bill that really caught our eye, and I guess this was discussed earlier on another bill, is accelerating the sunset on Nebraska Advantage. You know, we have two proposals, one by Senator Harr, LB557, and I think you've got one pending as well, LB546, I believe it is from Watermeier. So we're trying to work through issues right now. I'm not going to say that there aren't issues with Nebraska Advantage. The SRI international report that was released last summer details quite a few. So, I think the other thing that having a sunset accelerated by the effective date of this act kind of precludes any kind of efforts that we want to have go forward in trying to develop an updated modern version of Nebraska Advantage Act. So that's another reason for our opposition. I know this afternoon we've got into, you know, a lot of kind broad-ranging discussions of incentives, or is it tax climate discussions that we need to focus on, or do we need to focus on tax incentive discussions. I think we really do need to have both. That's why we're supportive of cutting income taxes, but also updating our incentive programs so that we actually ask for higher wage requirements from the companies. And I just want to have you think about that too. You know, we hear about that a lot. We ought to do away with incentives altogether. You know, let's just do the tax climate and what I hear from our economic developers is, I wish we could do that. We'll be the, you know, maybe the tenth state to do that because in the meantime if we were the first ones then to do that, I think we would be shocked by how quickly we would feel a negative response from that. I know if I went back and told my economic developers that work for the Chamber, hey, we're going to do with incentives altogether. They would be scrambling. And even if I did say, but, you know, it's going to be okay because we're going to really lower our overall tax climate. Some of these projects are so big and they generate so many jobs, you'd just be astounded by the amount of competition that we are in with other states. I'll give you one quick example, IBM. We lost a project for IBM probably about three or four years ago. We were generating \$60 million of tax credits on that and we lost it to Louisiana. Louisiana beat us by about, I think, \$40 million. So I just think we need to sit back and maybe not take a time-out and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

not have these, but we need to take a time-out and maybe look at really everybody getting together and really understanding the ramifications of what we just kind of talk about, just in a casual way. So with that, I will conclude my comments and be happy to answer any questions you might have. [LB374]

SENATOR SMITH: Thank you, Mr. Bohrer, for your testimony. Questions from the committee? I see none. [LB374]

BRUCE BOHRER: Thank you. [LB374]

SENATOR SMITH: (Exhibits 1-2) Thank you. Next opponent of LB374. We do have two letters for the record in opposition to LB374. They are from Rocky Weber representing Nebraska Cooperative Council, and Mike Lang representing city of Lincoln. We now move to neutral testimony, those wishing to testify in a neutral capacity. Welcome. [LB374]

RENEE FRY: Thank you. Hello, again, Chairman Smith and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. Again, hadn't planned to testify but just for the record wanted to mention a couple of things when we're having these conversations about taxes and incentives. As you heard, there are so many factors that businesses look at, at why they locate in the state. And a prior bill assured some data looking at Fortune 500 companies, for example, and where they're located. And you have a lot of Fortune 500 companies that are located in high tax states and I'm happy to share that information with you, again. And, in fact, when you compare, you know, the ten states of the highest tax rates versus the ten states of no taxes, so many more Fortune 500 companies are located in those higher tax states. So there are just so many factors that companies look at. As I've mentioned, Dr. Bartik has a recent study on tax incentives looking at 33 states and he did not find that there was a relationship between the level of incentives in the state and their tax rates. He found that a tentative be some political idiosyncrasy, was what he referred to it as, that at some point in time there was a Governor or an event and in our case it was...I would say it was ConAgra threatening to leave in the mid '80s that led to a certain level of incentives and he found that the biggest predictor of the state's level and of incentives were the prior year level of incentives. And so...so based on some political idiosyncrasy the state establishes an incentive program and maintains that level of incentives moving forward. So I would just mention that, and as I testified earlier, according to Good Jobs First we spent \$161 million in incentives to ConAgra and I guess I just would ask whether we would look back and feel that was money well spent, so. And with that, I'd be happy to answer any questions. Thank you for your time. [LB374]

SENATOR SMITH: Thank you, Ms. Fry. Senator Groene. [LB374]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

SENATOR GROENE: Thank you, Chair. Those ten high tax states that had the more corporations, Fortune 500, did you compare where they also said on the list of incentives, are they also in the top ten incentives offered? [LB374]

RENEE FRY: You know, we did that analysis prior to Dr. Bartik's report coming out. We can certainly look at that. Based on the conference of the webinar that he had in his report, he indicated that there wouldn't be a direct relationship, but we can go back and look. [LB374]

SENATOR GROENE: They might have a high tax rate, that doesn't mean the corporation is paying the high tax rate. They might be getting it all back in an incentive. [LB374]

RENEE FRY: Yeah, he just didn't find that there was a correlation between tax rates and levels of...level of incentives. He thought that, you know, a lot of people talk about incentives. They're used to offset high tax rates and he specifically indicated that that wasn't the case. But we'd be happy to go back and look at that, though. That would be easy to check too. [LB374]

SENATOR GROENE: Check and see how the football team is rated too. LSU has done a lot better than us lately. That's probably why IBM went there. Thank you. [LB374]

RENEE FRY: Yeah. [LB374]

SENATOR SMITH: Thank you, Ms. Fry. [LB374]

RENEE FRY: Thank you. [LB374]

SENATOR SMITH: Next person wishing to testify in a neutral capacity. Seeing none, we invite Senator Schumacher to close on LB374. [LB374]

SENATOR SCHUMACHER: Thank you, Chairman Smith, members of the committee. Part of the objects of the series of bills that I brought this year was to lay out a smorgasbord. Lots of different issues, lots of different approaches to things, so that all facets kind of had a chance for a hearing. So that when we get around to sitting down and trying to figure which way is up, we at least have a general idea which way is up. And we have the ability then to pick and choose and to do the job the committee has to try to fashion something. Now whether that's possible to do in one year or two years, or it's three years, then we won't have to worry about it or at least some of us won't. But that's the purpose of these bills. This one deals with corporate taxes. Are we too high at 7.81 percent? What can we do to encourage corporations which are probably more Nebraska ecosystem favorable. Small guys, few employees, you know, five employees by little

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 15, 2017

guys times 20 little guys or gals, as Senator Pansing Brooks would make me say, it's the same as 100 from a big guy or big gal. Trying to go after the big gold ring at the same time sliding the people who in large numbers are making most of the investment in the state, employing most of the employees in the state, and kind of ignoring them, forcing them maybe into sub S's and into LLCs when they might be better fit as a C because they don't want to get hit with that extra 7.81 percent, and turn around if they take it out as a dividend, get creamed again with 6.84 percent, it's creating an economic anomaly. And so, I'll be happy to take any questions, but hopefully we threw another tool in the toolbox that we can play with. [LB374]

SENATOR SMITH: Thank you, Senator Schumacher. Remaining questions for Senator Schumacher? I see none. [LB374]

SENATOR SCHUMACHER: Thank you. [LB374]

SENATOR SMITH: Thank you, Senator Schumacher, for bringing this bill forward. [LB374]

SENATOR SCHUMACHER: I've got to get back over to HHS where actually got people testifying in favor of my bills. (Laughter) [LB374]

SENATOR SMITH: That concludes our hearing on LB374. [LB374]