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Revenue Committee
January 25, 2017

[LB161 LB233 LB234]

The Committee on Revenue met at 1:30 p.m. on Wednesday, January 25, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB233, LB234, and LB161. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Brett Lindstrom; and Paul Schumacher. Senators absent: Tyson Larson.

SENATOR SMITH: Good afternoon everyone and welcome to the Revenue Committee public hearing. My name is Jim Smith. I'm from Sarpy County representing the 14th Legislative District and I chair the Revenue Committee. The committee will take up the bills in the order posted on the outside of the room. Our hearing today is your part...is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To facilitate today's hearings, I ask you to follow the following procedures. First, please turn off your cell phones and other electronic devices. If you're going to testify, please move towards the front of the room so you're prepared to move to the seat to testify when your time comes. The order of testimony will be the introducer of the bill, proponents, then opponents, those testifying in a neutral capacity, and then we will have 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 testify. If you have written testimony or exhibits for the committee, and you would like to have those distributed to the committee, please hand them to the page and they will be distributed. We will need 11 copies for all committee members and for staff. If you need copies made, please let us know...let one of the pages know and we will get that taken care of for you. When you testify, please start out by stating and spelling your name. That is for the record so the transcribers can get that correct. We will use the light system. That will be...the light will be green for four minutes. It will then turn to an amber for one minute, and when you see the red light on, we would just ask that you wrap up your comments. 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. And we ask that you speak into the microphone. The microphone is not to project your voice but to make certain that the transcribers are able to hear and transcribe your testimony into the record. On my immediate right, but actually sitting at the table to testify, is legal counsel Mary Jane Egr Edson and Mary Jane is going to introduce our first bill here in just a moment. To my immediate left is research analyst, Kay Bergquist and to the left at the far end of the table is committee clerk, Krissa Delka. I'm going to allow my colleagues to introduce themselves. At the far end of...to my right, your left, barring the table, Tyson Larson. Tyson Larson...Senator Larson is currently absent. He may be joining us a bit later. Next.

SENATOR GROENE: Senator Mike Groene, District 42, Lincoln County.

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SENATOR LINDSTROM: Senator Brett Lindstrom, District 18, northwest Omaha.

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

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

SENATOR SCHUMACHER: Paul Schumacher, Platte County and parts of Stanton and Colfax County.

SENATOR HARR: Burke Harr, Legislative District 8.

SENATOR SMITH: And we have pages with us today that are here to assist us and assist you. We have Alexi from Milwaukee, Wisconsin, and Sarah from Topeka, Kansas. We appreciate their help in being here today. Senators will come and go during the hearing, so if you see folks arriving late or leaving, they have other bills that they may be...having to testify on in their own in other hearings. So please excuse that. Also, we may from time to time refer to our electronic devices up around the table. We do get much of our information on our electronic devices in addition to the books that are in front of us, so please excuse us for that as well. And with that, we're going to begin with LB233. This is a bill to change a revenue in taxation provisions. We consider this to be a technical cleanup bill and we have legal counsel to the committee introducing this bill today. Welcome. [LB233]

MARY JANE EGR EDSON: Thank you, Chairman Smith and members of the committee. I am your legal counsel, Mary Jane Egr Edson, spelled M-a-r-y J-a-n-e E-g-r E-d-s-o-n, appearing before you today to introduce LB233 which is introduced by Senator Smith at the request of the Department of Revenue. As he mentioned, it is a technical cleanup bill but it is quite lengthy and touches on several different areas of statute. Bear in mind that a representative from the Department of Revenue is here behind me and will testify after me, so if there are any questions that I can't answer or things that are not clear during my testimony, you can always ask him for some further information or further clarification. If I'm a little rusty, please bear with me. It's been ten years at least since I had to testify in front of the Revenue Committee. So anyway, Section 1 of the bill. I'm going to go section by section through the bill and just kind of try to give you...kind of hit the high points and go from there. Section 1 deals with what's known as the Nebraska Lottery and Raffle Act. We're not talking about the Nebraska state lottery, we're not talking about keno. What we're talking about are those fund-raising events by nonprofits where you purchase a ticket. And then it goes into a raffle and a winner is drawn out. The difference is under a lottery system the prize is cash. If it's a raffle, the prize is merchandise. And under

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current law if you are in certain counties or a city of the metropolitan class or a city of the primary class and you're a nonprofit who wants to run one of these lotteries, you are supposed to obtain specific authorization by ordinance or resolution. And my understanding is that for the most part, the nonprofit organizations are not complying. The cities don't see the reason why they need to go through and do an actual ordinance or resolution, time-consuming paperwork, and the Department feels that it may be time to remove that language. And I'll let the representative from the Department talk more about that one. Sections 3 and 4 make several changes to what is known as the Affordable Housing Tax Credit Act. This was passed last session. It was originally LB951, Senator Harr's bill that became part of the Revenue Committee's omnibus bill last year which was LB884 and there are several things that need to be addressed from a technical standpoint in that bill. The first has to do with how you divvy up the credits for flow-through entities such as an S corporation or an LLC so there's language to clarify that that would be up to the flow-through entity to determine how those credits are divvied up. Importantly the credits under this program are transferable and so there's simply a technical language change from the word "assign" with regard to the credits to the words "transfer, sell or assign" which are more commonly used terms throughout our revenue code. The holders of these tax credits would be required under the bill to notify the Department when the credits have been transferred to them. The current language of the statute talks about recapture of credits and how the recapture is treated. The Department would like to see any recaptured credits simply become due and payable at the time that they are recaptured. And then lastly, it's not clear under the language of the bill from last year as to when you may start to claim these credits, this bill would clarify that you can claim them for tax years beginning on or after January 1st of 2019. So those are the provisions that all deal with the Affordable Housing Tax Credit. Sections 2, 5 and 6 in the bill deal with cigarette tax provisions. The first one deals with the master settlement agreement, which I think most of you are familiar with, the multistate agreement with the manufacturer producers. The forms are now being filed electronically with the language in the statute. It still talks about forms prescribed by the Tax Commissioner, so this language would change to any manner prescribed by the Tax Commissioner. So we're just catching up with technology. And then there are two sections in there that would address similar issues with regard to Nebraska cigarette tax program. Sections 7, 8 and 9 of the bill, the first point is that currently employers in Nebraska must file their W-2s by February 1st. The bill would change that date, move it up to January 31st which matches the federal rule. So W-2s would be due at the same time to the feds and to the state. The second point is that currently the Department only, or the Tax Commissioner only has authority to change mathematical errors on returns and other documents filed with them. The bill would expand that to include clerical errors, which again matches federal authority. A clerical error might be that you've transposed the numbers between what's on your return and what's on your check for payment. Section 10 of the bill was originally LB510 introduced by Senator Tonya Cook back in 2015, was also a part of the committee's omnibus bill last year. This is a relatively small credit for employers who hire people who have been receiving TANF benefits. The Department, as I understand it, met with representatives from the

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Department of Health and Human Services to utilize correct terminology as it's used within the TANF program and so there are new phrases in there such as caretaker, relative, and family unit which are commonly used terms in TANF, but not in the revenue code. Also there's no clarification as to when the employee had to have been hired and when they came off of receiving their TANF benefits and so this bill would clarify that the employee was hired and had been receiving the TANF benefits in the year for which the credit is sought or claimed. So those are just a couple of cleanup with regard to a previous bill. Section 11 allows the Tax Commissioner to provide homestead exemption forms to the counties in any manner. Currently, it says they must be in printed form. This would allow them to be, again, in a manner prescribed by the Tax Commissioner. Section 12 allows for the future electronic filing of other tobacco product returns again in a manner prescribed by the Tax Commissioner. Section 13 deals with the intersection between the Homestead Program and our Property Tax Credit Program. There are taxpayers out there who qualify for homestead and by the time the homestead is applied they owe no property taxes. And so in that case, they would not be entitled to receive a property tax credit because that's not a refundable credit. So there are isolated situations apparently where that money from the property tax credit fund does not get distributed and the county must return it to the state and this provision would require the county assessors to provide such amounts and other related information in electronic format to the property tax administrator. Section 14 of the bill deals with the Nebraska Advantage Act, the primary tax incentive program with regard to what we call qualified property that qualifies towards your investment and earning of investment credits in a Nebraska Advantage. Currently qualified property is deemed to have been...or it counts towards your investment credit quote, unquote, when it is acquired, and the bill would change that to one placed in service which is a much more commonly used term in our tax code as well as the federal tax code. Section 15 of the bill would change the reporting date for school adjusted values, property tax values, from August 25th to August 20th. It would move it up by five days and this is the same date that taxable values are certified to local governments. So again, we're trying to get some consistency there in reporting. The bill would also change the date for amending school adjusted value. If you were going to amend your school adjusted value it would have to be done by August 31st rather than September 30th. Section 16 of the bill provides an effective date for the electronic filing of other tobacco product returns which would be October 1, 2017, and the last section, Section 19 repeals what's known as the Low-Income Energy Conservation Act, which apparently is not being utilized. And I would let the representative from the Department perhaps talk in more detail about that. That sums up the bill and I would try to answer any questions that the committee might have or leave them for the Department. [LB233]

SENATOR SMITH: All right. Senator Schumacher has a question. [LB233]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you for making easy work of what appeared to be a long bill. I do have one question with regard to where the treasurer has to

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file electronically with the Property Tax Administrator the homestead exemption versus property tax. Will they have additional cost on that at the treasurer's office? Who...will there be cost and who foots the bill? [LB233]

MARY JANE EGR EDSON: I don't know that there will be any cost. It's the assessor who will...I think it's those in the bill...it's the assessor who will have to do this, county assessors. They have to notify the Property Tax Administrator now of the amounts that do not get distributed under the Property Tax Credit Program. I'm not sure how they're doing it now other than maybe sending something in the mail that this would require them to do it electronically in a manner prescribed by the commissioner. I'm not particular...I don't know exactly what they have in mind and the representative from the Department might be able to answer that better. [LB233]

SENATOR SCHUMACHER: Well, a lot of county boards seem to feel that the state is the one that makes us spend the money with all these mandates. [LB233]

MARY JANE EGR EDSON: I did speak with a representative from NACO and they were not even aware of the fact that there were property tax credit funds that went undistributed because of this situation, so I'm assuming it's not particularly common or a large dollar amount. And thank you for your kind words, but the representative from the Department of Revenue helped me immensely in putting together my summary of this bill. [LB233]

SENATOR SCHUMACHER: Thank you. [LB233]

SENATOR SMITH: The seventy...roughly \$72,000 in costs is a one-time related to programming to the office of the chief information officer, right? [LB233]

MARY JANE EGR EDSON: Correct. Anytime the Department of Revenue makes a programming change or brings a new program on line, for on-line filing fee, office of the chief information officer has to make a charge to them for that. [LB233]

SENATOR SMITH: All right. Very good. Do we have any further questions of legal counsel? Senator Schumacher. [LB233]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Along those lines, that's an internal transfer. I mean, or do they hire an outside programmer that they actually pay money to? [LB233]

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MARY JANE EGR EDSON: I don't know what the OCIO, I would assume they have internal programmers that they're using, but... [LB233]

SENATOR SCHUMACHER: That's always been very confusing, but there's a zillion dollar program internal and I mean it's one hand getting money for the next one. [LB233]

SENATOR SMITH: And along those lines, it may not be that they're actually hiring someone to do that. It's an internal cost. All right. [LB233]

MARY JANE EGR EDSON: It's an added cost for the electronic filing because you're adding one more...yet another program on to the computer, on to the state system. [LB233]

SENATOR SMITH: Any further questions from the committee? I see none. Thank you. [LB233]

MARY JANE EGR EDSON: Thank you. I guess I waive closing. (Laughter) [LB233]

SENATOR SMITH: Probably so. We will move to proponents of LB233, those wishing to testify in support. And by the way, legal counsel did a very nice job, although it's been ten years. You did a very nice job. Thank you. Welcome. [LB233]

GEORGE KILPATRICK: (Exhibit 1) Thank you, Chairman Smith, members of the Revenue Committee. My name is George Kilpatrick, G-e-o-r-g-e K-i-l-p-a-t-r-i-c-k. I'm an attorney for the Policy Section of the Nebraska Department of Revenue and liaison for the department. I'm here on behalf of the Tax Commissioner, Tony Fulton, speaking in support of LB233, the Revenue Department's administrative bill which Senator Smith was kind enough to introduce on behalf of the Department, I guess, I should say. I may be a bit rusty. I'm thinking it's probably been nine years since I've testified before the Revenue Committee. (Laughter) But it is a pleasure to be back. Thank you. I will skip...I did prepare some testimony and it's being handed out. I'll skip parts of it at least in the interest of time. I agree, Ms. Egr Edson did do a nice job summarizing some of the provisions. Let me clarify a little bit with regard to the requirement about the nonprofits and the ordinance or resolution of the counties that current mandate exists for metropolitan, primary class cities and class six and seven counties and what that amounts to is Lincoln, Omaha, Lancaster County, Douglas County, Sarpy County and Hall County. It's the two largest cities and the four largest counties. And this would eliminate that particular requirement that there be a particular ordinance for the particular raffle in order to operate. I wanted to clarify with regard to the affordable housing tax credit that what we're asking for in terms of the notification of a transfer, sale, or assignment is that the assignor sends something that reports to us who it went to and a tax ID number. It might be a Social Security number or it might be a

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employer ID, but a number for which we can match up within our records. The...I would just add that in terms of the recapture aspect, the bill last year talked about saying that the amount of recapture is to be reported as income. In thinking through that, reporting it as income means that credit would only be recaptured at the marginal rate of the taxpayer and rather than recapturing all of it, so it's more than simply a convenience. It's a matter of getting their numbers exactly correct. And again, we believe that's consistent with what was intended. Let me touch a little bit on the...essentially your question, I guess, Senator, about the charge to...from the OCIO. There are times when OCIO does in fact hire outside contractors to help them with applications. I don't believe this rises to that level. We sort of look at it, or our IT folks look at it in terms of numbers of hours and if it's under a certain amount, it's a OCIO charge and if it's over a certain amount, we anticipate that there may be an outside contractor. This does not rise to that level. So essentially, no. In this case, there would not be...I also wanted to know for the committee that what we did in our fiscal note on this was request that it be...that it be taken from the Tobacco Products Administration Cash Fund. That is a fund that we do charge some expenses again with regard to other tobacco products, generally not fully utilized. And so the charge can be easily accommodated, at least currently. So that's how that works. I also wanted to note that what we intend to do is what we've done with other electronic filing programs in the sense that there will be some time before the mandate would be put into place. It would be starting with the largest and sort of working down to the smaller ones, as we've done in other programs like this. It doesn't say that necessarily in the bill, but that is what we would intend. But it says as the commissioner may direct as things go forward. I did want to spend a little bit of time on the Low-Income Home Energy Assistance Act was passed in 2008. It was used for a couple of years. There was some other financial difficulties in the state at that time. It was suspended for a couple of years and when it came back into place, it was limited. It was limited to \$250,000 statewide money and \$50,000 per utility. It's money that they matched 100 percent and provided to folks asking for grants for those types of programs. Since it has been revived, and it's been in place now for five or six years, no one has asked for any money. And so at this point we would suggest that it's probably acceptable to go ahead and repeal the program. I guess...I think I've touched on the things that I thought required some clarification, but I'll be happy to answer any questions. That concludes my prepared testimony. Skipping to the end, thank you for your attention on behalf of the Department of Revenue. I ask that you advance to General File. If there are any questions, I'll be happy to answer them. [LB233]

SENATOR SMITH: Mr. Kilpatrick, if you have additional information you'd like to provide us, please continue. [LB233]

GEORGE KILPATRICK: Well, again, I tried to skip to the stuff that was most important. I think at this point maybe the time would be better spent answering questions. [LB233]

SENATOR SMITH: All right. Very good. Senator Brasch. [LB233]

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SENATOR BRASCH: Thank you, Chairman Smith and I've become very intrigued with the cost of \$71,521. It sounds like an annual salary of some sort. I don't know, is it...and I'm looking through the bill and it allows permits, qualifies change of state, where is the...you can get programmers for...contracted at \$45 an hour if its... [LB233]

GEORGE KILPATRICK: Well, perhaps. The charge that we put in place with regard to OCIO work is \$95 an hour, is what we're assigned. [LB233]

SENATOR BRASCH: Okay. That's a long ways from \$72,000 still, I'm... [LB233]

GEORGE KILPATRICK: It is, but there's more to it than that. But that is essentially a standard charge for creating and administering an electronic filing program. [LB233]

SENATOR BRASCH: Is that ever reviewed? It truly does seem extremely high. [LB233]

GEORGE KILPATRICK: I understand. [LB233]

SENATOR BRASCH: If we could at...not during this hearing but get a break out of how many personnel, why are they projecting that much of a cost from what looks like a procedure, a language change allows, math corrections, allows, clarifies changing reporting...I'm just curious where the expense is coming in. [LB233]

GEORGE KILPATRICK: The expense is entirely with regard to the electronic filing of other tobacco products returns, which is a new electronic filing program for us, or will be. [LB233]

SENATOR BRASCH: So they're designed for the program and they're estimating a certain amount of hours. [LB233]

GEORGE KILPATRICK: And again, it's not necessarily different than what has been in the past when we've gone through this... [LB233]

SENATOR BRASCH: Okay. [LB233]

GEORGE KILPATRICK: ...but I understand. I really do. [LB233]

SENATOR BRASCH: Okay. Thank you. I have no other questions. [LB233]

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SENATOR SMITH: Senator Harr. [LB233]

SENATOR HARR: Thank you. Where specifically in the bill does that \$71,000 come into cost? What portion? [LB233]

GEORGE KILPATRICK: The...well, the portion that deals with other tobacco products, specifically are we talking about the section number? [LB233]

SENATOR HARR: Yeah. I think we're probably going to want to delete that. [LB233]

GEORGE KILPATRICK: Okay. The section number is...well, it's easier to look and find in the testimony, isn't it? Section 12... [LB233]

SENATOR HARR: Section 12? [LB233]

GEORGE KILPATRICK: ...is other tobacco products; 77-4014. [LB233]

SENATOR HARR: So if we eliminate Section 12, that will eliminate the fiscal note on this bill? [LB233]

GEORGE KILPATRICK: Yes. Yes. [LB233]

SENATOR HARR: Okay. Well, I will take that into account. Thank you. Section...looks like Section 13 has to do with the Property Tax Credit Cash Fund. [LB233]

GEORGE KILPATRICK: Property Tax Credit, yes. [LB233]

SENATOR HARR: And I guess my question there is, that has to address the issue of where someone doesn't have to pay property tax because the homestead exemption in there for they don't receive the Property Tax Credit Cash Fund, correct? [LB233]

GEORGE KILPATRICK: Yes, a certain...yes. [LB233]

SENATOR HARR: How much of the Property Tax Credit Cash Fund is unused due to this situation? [LB233]

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GEORGE KILPATRICK: It's less than a million. [LB233]

SENATOR HARR: Okay. Do you know the exact amount? [LB233]

GEORGE KILPATRICK: I do not, but I can find it. [LB233]

SENATOR HARR: Yeah, could you find...that would be wonderful. And where does that money go then? [LB233]

GEORGE KILPATRICK: General Fund. [LB233]

SENATOR HARR: Okay. Back to the General Fund. Does it go to the rainy day fund or does it go to the... [LB233]

GEORGE KILPATRICK: I may have to correct that. It may go back to the Property Tax Credit Fund to be refilled the following year. It does not go to the Cash Reserve, no. It would either go to the General Fund or to the Property Tax Credit Fund. [LB233]

SENATOR HARR: If you could clarify that for us, we would appreciate that. And then I'm going to go to Section 19. And, of course, that has to do with elimination of the energy fund. And I think this is an important lesson because we're in a fiscal shortfall again just like we were in 2010 and I think we're going to try probably do some of the same old things where we suspend a program for two years because we can't afford it with the idea that we'll start it up again. Can you tell me, if you know, did you do...who received this money prior to 2010, which utilities? [LB233]

GEORGE KILPATRICK: Specifically, I know OPPD had a very extensive program. [LB233]

SENATOR HARR: Okay. [LB233]

GEORGE KILPATRICK: I believe that LES had an extensive program. My recollection is there were three or four utilities that did it. I don't recall the other two. The...it was...I'm not sure what heavily used means, but it was probably from state fund standpoint. [LB233]

SENATOR HARR: Okay. [LB233]

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GEORGE KILPATRICK: This is the outright repealer, Senator, at the very end. I'm going to say probably a half million dollars of state funds and then matched by the utilities. [LB233]

SENATOR HARR: Okay. And LB...it was suspended for two years it says here in your notes, your testimony, by LB385. [LB233]

GEORGE KILPATRICK: Correct. [LB233]

SENATOR HARR: Do you know if LB385... and I don't...I can look it up but if you know, that would be great. Did LB385 say it suspended the program or did it say the program suspended for two years? [LB233]

GEORGE KILPATRICK: It suspended the program for two years, called it to be reinstated with the caps that I mentioned earlier; \$50,000 per utility; \$250,000 for the state. [LB233]

SENATOR HARR: Okay. And it says here, a total for the state of \$250,000 liability. [LB233]

GEORGE KILPATRICK: Correct. [LB233]

SENATOR HARR: And when in that number...or when the funds were reapportioned, do you know, did the Department of Revenue notify those previous utilities that the funds were available again, or do you know...? [LB233]

GEORGE KILPATRICK: I don't know. I don't recall anything specific, so are you asking should we have done more? [LB233]

SENATOR HARR: I didn't ask that, no. [LB233]

GEORGE KILPATRICK: Okay. [LB233]

SENATOR HARR: No, I'm just trying to figure out because here's where I am. We're going to probably do something similar now because we have a money problem and I think we have to be very careful when we suspend something if we're not unintentionally killing it. And that's what I'm trying to figure out and I'll talk to our friends at OPPD to find out why they didn't reinstate this. Is it because they didn't trust that the state would provide the money or what their reasoning was. So I think it's important before I agree to anything on that to talk to our friends at OPPD

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and find out why that occurred and what the situation is. So, thank you very much. I appreciate your testimony here today. [LB233]

SENATOR SMITH: Very good. Senator Groene. [LB233]

SENATOR GROENE: Thank you, Mr. Chairman. On Section 15, I'm getting a lot of calls because I'm on Education about why changing those dates. I was...somehow it got out there was confused as they thought you were changing it to the 25th. But this only concerns education, right? It was the only one that didn't have the same date as every other tax entity, is that correct? [LB233]

GEORGE KILPATRICK: It's adjusted value for purpose of school aid and yes, it makes it the same as the other entities. [LB233]

SENATOR GROENE: Cities and counties. [LB233]

GEORGE KILPATRICK: Yes, in terms of their...in terms of what they had to levy against to set their budget, yes. [LB233]

SENATOR GROENE: The assessor has to have that too, then, to each entity...taxed entity on it. [LB233]

GEORGE KILPATRICK: Yes. [LB233]

SENATOR GROENE: Just out of curiosity, why can't we open that...is it that hard to push it back to July 30th or something like that to give everybody more budget time and hearing times? [LB233]

GEORGE KILPATRICK: Well, what occurs... [LB233]

SENATOR GROENE: It's a very narrow window. [LB233]

GEORGE KILPATRICK: It is and.... [LB233]

SENATOR GROENE: Public meetings and act and budget hearings, final budgets, comments by citizens. [LB233]

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GEORGE KILPATRICK: If Larry Dix were here, I think he'd probably tell you that, yes, this calendar would work a whole better if there were two more months in the year in order to make everything happen, but there's a lot of things that occur between January 1st and that certification date, including things like appeals, your valuation, and notices for those hearings, and then the TERC process now occurs first back in April. And then some counties get to extend their period for hearing protests by ten days, and so, that process currently, perhaps just about the end of August, right, or in the middle of August...beginning of August. So this has to fit after the protests have been addressed at least at the county level so that the amount that is certified by the county board at that time is the final for purposes of the levy, and then any appeals, of course, get addressed later. But it's hard to find enough days for all of these things, I agree. [LB233]

SENATOR GROENE: But my assumption is these laws were put in effect when we had ledgers and pencils. You got computers now, I would think they could compile that a lot quicker than they did in 1950 or '60 or '70. [LB233]

GEORGE KILPATRICK: You know, this is worked by the county. [LB233]

SENATOR GROENE: Yeah, so talk to...talk to the entities not... [LB233]

GEORGE KILPATRICK: This is work done by the county treasurer and I probably shouldn't speculate about what they can and can't do, but. [LB233]

SENATOR GROENE: Just would be nice to open that window a little wider. Thank you. [LB233]

SENATOR SMITH: I see no further questions. I think there's a good possibility we will be hearing from Larry Dix here shortly. [LB233]

GEORGE KILPATRICK: Oh, did he come in while I was sitting here? [LB233]

SENATOR SMITH: Thank you for your testimony, Mr. Kilpatrick. Next proponent, LB233, wishing to testify in support of LB233. Welcome. [LB233]

TERRY JESSEN: Thank you. Good afternoon, Chairman Smith, and Revenue Committee. My name is Terry Jessen, T-e-r-r-y J-e-s-s-e-n. I have no problem with the corrections that the bill has addressed or designed to address. I appreciate Senator Harr's point of view on how can we eliminate the \$71,521, and maybe that is the right answer is to just not change that Section 12. It seems that maybe at all levels of government there ought to be ways to look at, is a change

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economically worthwhile or not. And that was really my only comments here was looking at the fiscal note and the cost and trying to understand how that works from one agency to another. It's maybe not a big deal if it's not going outside...to an outside contractor, but I still think it's a consideration. That's all I have. [LB233]

SENATOR SMITH: Thank you, Mr. Jessen. Do we have questions from the committee? I see...oh, Senator Harr. [LB233]

SENATOR HARR: Thank you. I just want to clarify the record so there isn't any confusion. You work in the Capitol, is that correct? [LB233]

TERRY JESSEN: I'm a volunteer in the Capitol. I'm not employed. I'm here on my own behalf. [LB233]

SENATOR HARR: Okay, that's what I wanted to clarify...so you're here in your individual capacity. [LB233]

TERRY JESSEN: Yes, that's correct. Donating my time. [LB233]

SENATOR HARR: Excellent. Thank you. [LB233]

TERRY JESSEN: Thank you. [LB233]

SENATOR SMITH: Thank you, Mr. Jessen. Others wishing to testify in support of LB233? I see no further proponents on LB233. Opponents, those wishing to testify in opposition? Seeing none. Those wishing to testify in a neutral capacity on LB233? Welcome, Mr. Dix. [LB233]

LARRY DIX: Good afternoon, Senator Smith and members of the committee. My name is Larry Dix, L-a-r-r-y D-i-x, executive director of the Nebraska Association of County Officials and testifying today in a neutral position. Originally, we really had no plan to say anything on this bill, although we are...I know we are mentioned in Section 13 in regards to the county treasurers and the requirement to provide that report. And so, certainly we know that is really the only place to get that information. And so, for that reason, we certainly have no problem providing that report. We know we're going to have to, but with that I'll open myself up to any questions that anybody may have. [LB233]

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SENATOR SMITH: Thank you, Mr. Dix. Questions from the committee? Senator Groene.
[LB233]

SENATOR GROENE: The question I asked George, is there any way we can open that window up a little wider between the certification date and the budget? [LB233]

LARRY DIX: Yeah, what...in exactly what we run into, yeah, I guess the best place...we get this question often on moving dates, not uncommon. And usually what we would do if I knew that question was going to come up, we would actually direct you back to the Department of Revenue's Web site because on that site it does list all those dates. And over the course of the years that I've been doing this, I know there are times when people have introduced bills to just move the date by a day or two. And then, of course, it starts to shuffle other dates and so before we would ever, you know, get into that position of starting to move those dates, we really want to have a good understanding of other dates it may impact. And so, while it sounds easy, but when you look at that and you print that out, there are pages of deadlines and dates and things like that. And not that anybody is trying to be difficult about it, it just sometimes you move that date and it has other implications that I would stress that to the committee if we do look at that, I'd like to really have a good conversation about what really is the true, true benefit and what really does it impact down the road. But I would always caution the committee in moving those dates.
[LB233]

SENATOR GROENE: Well, I'm, well, taxed for a long time and you go into a county assessor and they can give you a number, but they always remind you, this is just an estimate, but it's pretty close. They know the number but by law they can't give you an exact number until August 20. [LB233]

LARRY DIX: Correct. [LB233]

SENATOR GROENE: And then every tax entity says, well, I can't have a budget hearing or I can't do...they've already done their budget because they made the same phone call I did to the county assessor in July and said, what's my property tax receipts going to be? And they're within 1 percent. My point is if we could have a double number, but I'm going to look into it that we could have an estimated number, then a budget a little sooner. And the budgets can always be changed by a nickel here and a nickel there. But I've always been able to get the number earlier from the county assessor. [LB233]

LARRY DIX: And Senator Groene, I think, you know, just because of the way the statutes are written, the assessor really doesn't want to fall into that scenario where they give a number and then somebody runs with it and then all of a sudden there is a change at the last minute, but I

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certainly would agree with you that by the time we're getting to that, that estimated number is pretty close, and it probably isn't going to have a major, major change on anybody's budget. That number by that point in time is pretty close. [LB233]

SENATOR GROENE: The last thing they figure, I believe, is the railroads, the pipelines and the... [LB233]

LARRY DIX: Right. Sometimes there are some numbers...yeah, that they're waiting on that in conjunction with property tax division waiting on those numbers to come back, but for the most part they're aware of it and they're pretty close. [LB233]

SENATOR GROENE: Thank you. [LB233]

LARRY DIX: Yeah. [LB233]

SENATOR SMITH: Further questions for Mr. Dix? I see none. Thank you. [LB233]

LARRY DIX: Thank you. [LB233]

SENATOR SMITH: Anyone else wishing to testify in a neutral capacity? Welcome. [LB233]

KATHY SIEFKEN: Chairman Smith and members of the committee, my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association. Part of our association includes the Nebraska Association of Tobacco and Candy Distributors. And I'm here today on their behalf. And we are specifically...would like to speak about Section 12 which amends 77-4014 and basically what it does, is provides for electronic filing of other OTP or other tobacco product taxes. Right now we're filing those taxes by a paper and what we would ask is that, first of all, we believe that that's the direction things are going, electronic filing. Just for efficiency purposes and we don't have a problem doing that, but we would like to have about a year's transition so that we don't have...so that we've got enough notice where we're able to make those filings. And we would also ask that when the format is developed, that it would be similar to what we're doing right now so that we wouldn't have to reinvent the wheel and go through all of that. So with those two things being considered by the Department of Revenue, we support the bill...or remain neutral. If you have any questions, I'd be happy to try to answer them. [LB233]

SENATOR SMITH: Questions from the committee? Senator Brasch, then Senator Schumacher. [LB233]

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SENATOR BRASCH: Thank you, Chairman and thank you, Ms. Siefken. So, the comment that came up about Section 12, if that would be on hold for a couple of years, that seems to be where the fiscal note is, that would give the grocers...but are there other industries that are not affected by this that are already currently filing electronically? I don't know the... [LB233]

KATHY SIEFKEN: The tobacco...the cigarette taxes are filed electronically so we're doing...we're doing some electronic and some not. [LB233]

SENATOR BRASCH: Okay. [LB233]

KATHY SIEFKEN: And so what this does is it just moves it into the electronic world and we're willing to go there. [LB233]

SENATOR BRASCH: But they still have the option of using paper. [LB233]

KATHY SIEFKEN: They don't file electronically right now. That program hasn't been developed. [LB233]

SENATOR BRASCH: It has not. Okay. All right. [LB233]

KATHY SIEFKEN: I believe other states are filing electronically and it's an efficient way to do things...faster way to get funds. [LB233]

SENATOR BRASCH: All right. Thank you. I have no other questions. [LB233]

SENATOR SMITH: Senator Schumacher. [LB233]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Now, did I understand you right that you're working with the Department to come up with a delay or a phase-in period, or are we going to expect the language from you, or what's your thoughts there? [LB233]

KATHY SIEFKEN: We are not really working with the Department but on this specific issue, but the Department has worked us, with our industry in the past. So we anticipate that there will be a transition period and that the format will be something that we will be familiar with. [LB233]

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SENATOR SCHUMACHER: So we're not to expect new language from you or an amendment to this? [LB233]

KATHY SIEFKEN: No. No. [LB233]

SENATOR SCHUMACHER: This is something just internal and informal between you and the department. [LB233]

KATHY SIEFKEN: Yes. Yes. [LB233]

SENATOR SCHUMACHER: Thank you. [LB233]

SENATOR SMITH: Additional...Senator Groene. [LB233]

SENATOR GROENE: Is there anything in that bill that says if you continue to do it the old way until you get it done, that you're going to be harmed? [LB233]

KATHY SIEFKEN: I think what the bill says is that the procedure or the process for filing taxes would be left up to the Tax Commissioner. So it would be up to them whether there would be a deadline on filing with paper. But generally speaking, once you develop an electronic filing program, you want everyone on it. [LB233]

SENATOR GROENE: Yeah, if they got a check in the mail with a piece of paper, I think they'd accept it then until you got it transferred. [LB233]

KATHY SIEFKEN: Absolutely. I would think, yes. [LB233]

SENATOR GROENE: Thank you. [LB233]

SENATOR SMITH: Senator Harr. [LB233]

SENATOR HARR: Thank you. Do you know if Section 12, if this change is being driven by your industry or by the Department of Revenue? [LB233]

KATHY SIEFKEN: It is not being driven by our industry. [LB233]

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SENATOR HARR: Okay. And given the fact that we are in budget shortfall, you wouldn't object to it. In the world of "gotta haves" and "wanna haves", this is more of a "wanna have" I think for the Department. You wouldn't object if we delayed implementing Section 12 until 2016, '17...or excuse me, that's where we are now--time flies--until 2020 or something to that degree? [LB233]

KATHY SIEFKEN: We would not object. That's why we're here in a neutral capacity. [LB233]

SENATOR HARR: Thank you. [LB233]

SENATOR SMITH: I see no further questions. Thank you, Ms. Siefken. [LB233]

KATHY SIEFKEN: Thank you. [LB233]

SENATOR SMITH: Appreciate your testimony. Anyone else wishing to testify in a neutral capacity on LB233? Seeing none, that concludes our hearing on LB233. We now move to LB234, another cleanup bill. This one is to update references to the Internal Revenue Code. Welcome back. [LB233]

MARY JANE EGR EDSON: Thank you, Chairman Smith. Again, for the record, my name is Mary Jane Egr Edson, M-a-r-y J-a-n-e E-g-r E-d-s-o-n, your legal counsel appearing before you with regard to LB234. As Senator Smith said, this is the Revenue Committee's annual conformity bill. As most of you know, we conform to a large section of the Internal Revenue Code when it comes to both our individual income tax and our corporate income taxes. Our individual income tax returns in Nebraska begin with your federal adjusted gross income. Corporate returns begin with your federal taxable income and that's pretty much where we part ways with the IRS and the Internal Revenue Code. So this is our annual conformity bill which says that we conform up to a certain point with the Internal Revenue Code as of the date...whatever the effective date will be of the bill. And then it lists all of the things that we do not conform to and for your edification I believe I put a attachment on the back of the bill summary so that you can see at least the one-liners, but it's all of the bills with...it's all of our statutory sections with regard to how we actually do adjustments to adjusting gross income for individual income tax, deductions that we allow, credits that we allow, add-backs that we might require. Same thing for corporate and then there are a few other provisions dealing with the tax incentive programs where we do not conform to the federal definition because we have our own particular definitions here for the state of Nebraska. So, that's our conformity bill and I would try to answer any questions. [LB234]

SENATOR SMITH: Senator Schumacher. [LB234]

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SENATOR SCHUMACHER: Thank you, Senator Smith. Again, thank you for making a complicated line simple, but now you're trying to make it complicated again. In the past we've put a specific date in there. For example, the language that was being stricken here, how was it the last time we did this, it said February 27, 2015. This time it says on the effective date that it is at, which would be if we...depend on when we pass it, sometimes presumably a different date. And with the uncertainty that there is in Washington as to what the law is going to be like on any given day, and with sometimes massive changes promised, why the difference? Why didn't we just pick a day out of the blue moon like we did in the past? [LB234]

MARY JANE EGR EDSON: Oh, well, I'm not sure to be honest with you, but I failed to mention in my opening remarks is that we do have the E-clause in here. So, yeah, we just...I don't know. It could be a drafting differential, maybe, from the last time we did this, but typically you want to conform to the Internal Revenue Code as of a date certain. Okay. And so that then if there are changes, you could still...you're still conforming to the code as of that date, but not prior. [LB234]

SENATOR SCHUMACHER: For practitioners, if there's no method to the madness beyond that, for practitioners out there wouldn't it be simpler for them to have a date like we always used to do rather than have to look up that the date this bill became effective and if there's no other reason for it. [LB234]

MARY JANE EGR EDSON: I don't know if it would be easier for the practitioners or not. [LB234]

SENATOR SCHUMACHER: Thank you. [LB234]

SENATOR SMITH: Senator Groene. [LB234]

SENATOR GROENE: Thank you, Mr. Chairman. This list you have here, 77, these have all been changes since 2015 in the tax code? [LB234]

MARY JANE EGR EDSON: No, these are simply the things that are accepted. If you read the actual language of the bill it says, Article VIII, Section 1(b) of the constitution and then all of these statutory sections notwithstanding, we conform to the Internal Revenue Code as of the date, effective date of the bill. [LB234]

SENATOR GROENE: So, you don't actually in the bill you don't...this is a...bureaucratic change. [LB234]

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MARY JANE EGR EDSON: These are the ones that are accepted from our conformity specifically. [LB234]

SENATOR GROENE: And if there's been any changes in any of these, you adapt them to our...you accept them. Is that what you're saying here? [LB234]

MARY JANE EGR EDSON: No, what I'm...any changes to these statutes are just at the state level and for conformity purposes, we conform to the Internal Revenue Code but when it comes to things like the very first one is long-term debt security, we do not follow the Internal Revenue Code definition, we follow our own definition. That's what that means. Is that clear? [LB234]

SENATOR GROENE: But some of them you do conform to. [LB234]

MARY JANE EGR EDSON: Not these. These are the ones where the state of Nebraska has their own definitions or our own terminology and there's a difference...typically there's either a different definition at the at the federal level or there's no definition at the federal level. [LB234]

SENATOR SMITH: Senator Harr. [LB234]

SENATOR HARR: Thank you, Chairman Smith. I'm a little confused now, surprise, surprise. We're making changes...okay, some how, I'm assuming that Revenue will have to redo their forms or change based on these changes, correct? [LB234]

MARY JANE EGR EDSON: No, I don't believe so. [LB234]

SENATOR HARR: Okay. So is that why...I'm a little confused how we can make all these changes and it doesn't have a fiscal impact. [LB234]

MARY JANE EGR EDSON: We're not making any changes. This list is simply the items that are...when you read the bill, it says except as provided in all of these sections, we...any reference to the IRC refers to the Internal Revenue Code. [LB234]

SENATOR HARR: Right. [LB234]

MARY JANE EGR EDSON: Because there are references to the Internal Revenue Code all throughout the statutes, not just tax statutes. [LB234]

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SENATOR HARR: Fair, and I agree with that. But I'm assuming that we're rereferencing it because there are changes that the IRS made, correct? Probably? [LB234]

MARY JANE EGR EDSON: There might be minor changes that were made to the Internal Revenue Code, yes. [LB234]

SENATOR HARR: Some changes. So how does that, for instance we have income tax rates in here, we have capital gains, I'm assuming if the IRS changed those numbers, then the state is going to have to change those numbers. [LB234]

MARY JANE EGR EDSON: No, we have our own definitions. That's the whole point is that we can form to the code with the exception of this list. [LB234]

SENATOR HARR: Exception, okay. Maybe we'll talk about it. [LB234]

MARY JANE EGR EDSON: And this list is all of the Nebraska statutes where we either have our own definition or it's a unique term to Nebraska. [LB234]

SENATOR HARR: Okay, and I appreciate that you provide this list as well. And maybe I'll have to talk to you off the mike then. Thank you. [LB234]

MARY JANE EGR EDSON: Okay. [LB234]

SENATOR GROENE: I'm too confused to ask a question. Anyway, talk to me and see. [LB234]

MARY JANE EGR EDSON: Okay. [LB234]

SENATOR SMITH: No additional questions it appears. Thank you. Anyone here wishing to testify in support as a proponent of LB234? Anyone wishing to testify in opposition to LB234? Anyone wishing to testify in a neutral capacity to LB234? Seeing none, that concludes the hearing on LB234. We now move to our next bill, LB161, to be introduced by Senator Friesen. It regards a change in carryover period under the Nebraska Advantage Act. Welcome, Senator Friesen. [LB234]

SENATOR FRIESEN: Thank you, Chairman Smith, members of the committee. For the record, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n, and I represent District 34 and I want to thank you for the opportunity to introduce LB161. As many of you know, I'm not necessarily a big fan of

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tax incentives and when I met with Mr. Grewcock, CEO of Kiewit, Inc., I learned a lot about the investments and the jobs that companies create in the state and why they need the changes to LB161 that they're asking for. For me, it really boiled down to making sure that we're allowing the company to utilize the credits that it has earned. And as we work to grow the state, and as we wrestle with tax incentive reform, this is an important update to our current Nebraska Advantage Program. LB161 will help strengthen Nebraska's economy and incent companies such as Kiewit to bring more high-paying jobs and investments to our state. The companies that bring high-wage jobs and millions of dollars of investment to line with the SRI report, I was presented by Governor Ricketts and the Department of Economic Development this summer. As a member of the Transportation Committee I had an opportunity to visit Kiewit's headquarters in Omaha two years ago and to visit with Bruce Grewcock. Although most of Kiewit's business is outside Nebraska and they're a very international company, he and his team offered valuable incite and expertise to the committee and to the Department of Roads. I appreciate their willingness to be a resource to us. And I also know that their plan, their long-term growth to tweak to Nebraska will help them continue to place growth right here in Nebraska. Kiewit is an internationally known construction company with its roots firmly planted in Nebraska and it's my understanding that without the incentives in the Tier 6 program many of these jobs and investments might have gone to other states. For your background, Tier 6 is known as the Superadvantage Tier and was added after the original Advantage Act was passed over ten years ago. This tier is reserved for jobs...or for companies who make significant capital investments in Nebraska and create high-paying jobs. The wages must exceed 150 percent of the state average weekly wage or 200 percent of the county average, whichever is higher. However, Tier 6 companies currently have only a one-year carryforward period to use any of the remaining tax credits which are credits which were earned but not used during the entitlement period. This has the adverse affect of reducing the incentives for Tier 6 companies to keep investing and adding jobs in the later years of their Tier 6 projects simply because those companies will never get the chance to use the incentives earned for their business initiatives. In contrast to Tier 4...2 and Tier 4 projects, you know those are expansions with much lower paying jobs, they have up to an eight year carryforward period, so those companies are incented to keep investing and adding jobs. We have included a 20-year carryforward in LB161 as this sends a strong message to the business community that if they invest their capital and bring high-paying jobs to Nebraska they will be provided the opportunity to utilize those incentives they earned. This period is similar to other programs of the state and federal level like the 20-year carry forward period for net operating losses at the state level and federal tax credits for new investment have a 20-year carryforward period. With that, I do not profess to be an expert on tax incentives and certainly have my concerns about their success, but in this case I know who the company is, I know that they have created high-paying jobs and have invested millions of dollars in Nebraska. And I think this change sends a very strong message to encourage them to do more. As Nebraskans, I take pride in holding up our end of a promise and to me LB161 makes that possible to do just that. And for these reasons I'd ask the committee to support LB161 and I would be happy to try and answer any questions. [LB161]

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SENATOR SMITH: Thank you, Senator Friesen, for your introduction of LB161. Do we have questions? Senator Burke Harr. [LB161]

SENATOR HARR: Thank you and it's less of a question than a comment. I was glad to see you reference the Governor's SRI study and I have a bill that implements many of the recommendations of that study. [LB161]

SENATOR FRIESEN: Okay. [LB161]

SENATOR SMITH: Senator Schumacher. [LB161]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you, Senator, for introducing the bill. Have you had a chance to review the Performance Audit Committee's report on the Tax Incentive programs, specifically the Advantage Act? [LB161]

SENATOR FRIESEN: I've looked through portions of it, but I have not looked at all of it, no. [LB161]

SENATOR SCHUMACHER: Thank you, Senator. [LB161]

SENATOR SMITH: Seeing no additional questions, will you remain for closing? [LB161]

SENATOR FRIESEN: Yes. [LB161]

SENATOR SMITH: Thank you. Very good. We now welcome proponents, those wishing to testify in support of LB161. Welcome. [LB161]

BRUCE GREWCOCK: (Exhibits 1 and 2) Glad to be here. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Bruce Grewcock, B-r-u-c-e G-r-e-w-c-o-c-k. I'm the chairman and CEO of Peter Kiewit Sons', Inc. I'm here to support and offer Kiewit's perspective on LB161. Headquartered in Nebraska since 1884, Kiewit is a broad-based, employee-owned company and operates primarily in the United States and Canada. Kiewit has about 9,000 full-time staff employees. In Nebraska, we employ about 1,700 of them and we spend more than \$300 million annually to support our headquarters and our operations here in the state. I know that Nebraska is facing a difficult economic climate and I want to thank Senator Friesen again for introducing this bill that will help continue investment and job growth in our state. Tier 6 was added to the Nebraska Advantage Act in 2008 to promote high-quality jobs and

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significant investment in the state. And to qualify, Kiewit was required to invest at least \$106 million of capital and hire 50 employees who make more than approximately \$87,000 per year. Since 2012, Kiewit has invested more than \$400 million and hired 400 employees, 200 of which have earned more than the \$87,000 threshold, roughly four times the level of capital investment and a number of employees required. Nebraska has received, and will continue to receive, the benefits of this investment and these new jobs. Under Nebraska Advantage we have grown our salary base here by \$30 million. We estimate that these new employees alone contribute more than \$2 million a year in taxes. Kiewit has earned job and investment credits by meeting these hiring and capital thresholds. However, the Tier 6 one-year carryover period limits our ability to realize these earned credits. Kiewit builds projects across North America, so the majority of our operations are located outside the state, but we are truly a Nebraska company. However, we cannot ignore economics when deciding where to locate growing departments and divisions of our company. The Nebraska Advantage Act has been a crucial factor in decisions to grow our operations here. Since 2012, Kiewit moved its data center to Nebraska, opened a large shared services center in Omaha, and next month we will open a new training facility where thousands of employees will come to be trained each year. In four years, Kiewit has quadrupled the state's investment and hiring thresholds, as I mentioned previously. Now Kiewit is not asking the state for additional incentives. We're not asking for additional incentives. We simply want the opportunity to realize the incentives we have earned and will continue to earn. LB161 would extend a carryover period from one to twenty years for qualifying Tier 6 companies. This carryover period aligns with federal standards for similar programs. Nebraska Advantage has absolutely caused Kiewit to invest and grow in our home state. Jobs and operations that were, or could have been, in Michigan or Colorado or Kansas or Texas are now in Nebraska. With LB161, Nebraska Advantage will factor into similar growth decisions over the next 6 years. Companies like Kiewit that are willing to invest hundreds of millions of dollars and create high-paying jobs are exactly what Nebraska needs to help strengthen and grow our state's economy. So thank you for your attention and I hope that you will support this bill. And with me today is Don Fibich, our tax director who works on our state tax issues for operations if you get into some technical tax issues. But before I welcome your questions, I want to thank all of you for your service. You really have a tough job to do. So I welcome your questions. [LB161]

SENATOR SMITH: Well, Mr. Grewcock, thank you for your testimony today and in his opening remarks Senator Friesen mentioned that over the last couple of years the Transportation and Telecommunications Committee had a chance to meet with you and your senior staff. And you folks provided some valuable advice to us as we were looking to improve our infrastructure laws, so we appreciate that advice and in your help along the way. And then I also know that, you know, many states compete for your business and there are a lot of incentive plans out there. And you have chosen to invest in Nebraska and we greatly appreciate that. We thank you and we find that very valuable. We appreciate you very much and your staff, your company, and your investments in Nebraska. Have a couple questions. So would it be correct to say that many of the

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jobs and investments that you have and are making here would not have happened in Nebraska absent these incentives? [LB161]

BRUCE GREWCOCK: Absolutely. We had a data center located in Michigan and as part of the incentive, the Advantage Act, the incentive certainly factored in very importantly in our decision to move that data center from Michigan and it resides in...actually in Papillion and a backup center in Omaha. Jobs...we moved jobs. We moved some folks from Colorado that were located in Colorado, moved them here for jobs that we have here. So there's no doubt that it factors in our decision making in a very big way. Just two days ago I was engaged in a discussion with one of senior leaders about a discussion where to locate 60 jobs that we're consolidating some of our back office operations and a procurement operation and where to locate them. And certainly the Nebraska Advantage Act came up as part of our decision making process to understand the economics of whether do we locate here or do we move those folks that many are located in Texas right now, do we move that operation to Nebraska or do we leave it in Texas. [LB161]

SENATOR SMITH: So that leads into my next question for you. So as I understand it, we have an opportunity here through LB161 to make Nebraska more competitive as you thought-out your growth plans for Kiewit. So is it safe to assume that you're going to make some of those decisions yet this year? [LB161]

BRUCE GREWCOCK: Yes, like I said, I just had a meeting two days ago. Those decisions will be made here in the next month or two, but one of our concerns was if we moved and created these credits, would we be able to use them. And without this extension that's shown in the bill, we wouldn't be able to use them and so we might earn them, but we wouldn't be able to use them, so it was certainly a factor in our discussion you're having with my senior management team about, do we move or not move. [LB161]

SENATOR SMITH: Very good. Thank you. Do we have additional questions for Mr. Grewcock? Senator Schumacher. [LB161]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you, Mr. Grewcock, for your testimony today. We're told that there are several hundred million dollars of outstanding credits held by the various people who were involved in the Advantage Act. We don't know if they're going to be claimed or not claimed. Very difficult to project out what impact it has down the road on our revenue stream. We just don't know. What frustrates the system and our ability to analyze that quite a bit is that we do not have access to a lot of the financial information which would cause us to get a better grasp on the cash flows and what we can expect or not expect to really be out there. That's due to the privacy things in there and I don't even think there's a waiver provision so you could waiver it, if you wanted to. But, nevertheless, it adds to the complications

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of making a rational judgment on these kind of things. So, you know, it's beyond what Kiewit has, we had this whole other situation that we caused ourselves and at the same time, we're looking at probably increased burden on the state as the baby boomers age rather than decreasing burdens on the state unless Washington bails us out or something. So, it seems to me that what we're being asked to do here is maybe increase the net amount of those credits that will be cashed in on. We don't...because if I hear, and correct me if I'm wrong here, that one of the reasons that you're here is because you feel that you will run out of time in which to cash in on your credits. Is that correct? [LB161]

BRUCE GREWCOCK: Yeah, that's correct. I think the...and I wasn't involved in the original framing of the law, but I think Nebraska did it right and it's a pay for performance system. We have to perform, so in my views, we performed. We've brought those jobs to Nebraska. They're here. Those people are paying taxes today. The state is reaping the benefits of having this investment that we've made in facilities and whatnot. I'm going to be very pleased in two weeks to go to our new corporate training center in Omaha where we've invested \$15 million to build a new corporate training center. We're going to bring thousands of people every year to Omaha to be trained, so, but...but for the, you know, use of these credits, you know, we might have gone somewhere else. I got a lot of pressure from my folks who said, hey, why don't we go to Denver? Why don't we go to Dallas? It's easier for airline travel, etcetera, etcetera. I said, no, this is our home, let's invest. And by the way, we're able to utilize some of these credits. So my way of...we're not looking for additional...we're going to earn the credits. I think Nebraska was smart also. We have to maintain these levels of employment. It's not a one shot deal. There's a claw back provision as I understand it. So I think the original drafters of the bill did a pretty good job of figuring out how to craft a bill that made sense. I probably also...the original crafters didn't imagine when they created the Tier 6 that somebody would be as aggressive as we have to say, hey, yeah, I want to invest in the state of Nebraska for jobs and investment and we did. And so our problem is now we don't...we're not able to use them and as I mentioned, if any of discussion Monday with my staff about do we want to move 30 to 60 jobs, high-paying jobs that would qualify, from Texas. Well, I said, and part of the reason might be some of the tax credits and incentives will be earned, but I said the problem is the way the bill is structured now and how quickly we can use those credits, they really have no value to us. And so I take them out of the equation and so those jobs might stay in Texas and so we're not asking for more, we're just asking for the opportunity to use what we have earned. [LB161]

SENATOR SCHUMACHER: But in some respect, you are asking for more because when the state came up with the Advantage Act and got its fiscal estimates and maybe guesstimated how it would impact us down the road, there was some assumptions, and one of the assumptions was the termination date that's in the present act. And the deal that was made by businesses, when they engaged in it, was with that involved, that particular termination date in there. Now, if we say, okay, we're going to take away that termination date, we're going to increase our liability

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which naturally accompanies any increase in benefit to the businesses, we're going to increase our liabilities, then that's a deal we didn't make in the beginning. The deal was entered into with the knowledge that there was this one year time, not with the 20-year time. Our numbers were computed and it's no secret this is running far more expensive than what we thought it would be and I think we may have had a change to look at Performance Audit report, not a very glorious report on the Advantage Act. [LB161]

BRUCE GREWCOCK: Well, I have not looked at that report and I could appreciate your point of view. I kind of view it a little bit, perhaps a little differently with all due respect. I feel like the goal posts have been moved on us. I don't think when the...when Tier 6 was envisioned anybody envisioned the level of...how much that we might be motivated to do it. I think again, it was certainly at that level was a little bit of an experiment, if you will, and so I feel a little bit that maybe the goal posts have been moved on us a little bit. We held up our end of the bargain and now in a way, maybe the goal posts are being moved. But with all due respects, Senator, I could appreciate your position on it, but I think, you know, we've held up our end of the bargain, we've earned it, we made these investments, and so. [LB161]

SENATOR SCHUMACHER: One follow-up question and then I'll be quiet. If we were to eliminate the corporate income tax and in exchange for qualifying for the elimination of the corporate income tax, the Advantage Act went away. Good or bad deal, and why not? [LB161]

BRUCE GREWCOCK: Senator, I don't know enough about what the pros and cons of all that would be. We'd be certainly happy to study it and give you maybe some of our views on some of that. I will tell you, though, and I know certainly it gets to the challenge for the state of Nebraska when we move folks here to the state of Nebraska, their reaction is, wow. This a high-cost state. This is a high-tax state where it's property tax, income tax, sales tax. That's sort of their view and, you know, as a...you know, I own a home in Omaha, but I also own some land out state Nebraska in Brown and Rock County and imagine my surprise when I got my property tax bill here at the end of the year. And so it's an issue for Nebraska and I don't relish the role that you all have to figure out how we can generate more revenue in the state and how we're going to do it. I know the challenges and the competing notions. I believe bills like this, properly designed like I think Nebraska has done, in the long run create the kind of proper incentives that are good for the state, high-paying jobs and the kinds of investments to diversify our state's economy to allow us to survive the ebbs and flows of the economy. [LB161]

SENATOR SCHUMACHER: Thank you. [LB161]

SENATOR SMITH: Senator Harr and then Senator Groene. [LB161]

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SENATOR HARR: Thank you. Thank you, Chairman Smith, and thank you, Mr. Grewcock, for coming down here. We don't often get a man in your stature in front of us, so I am...I'm going to take advantage of it and ask you a couple of questions. And I guess it's about the bill, but it's not about the bill, and it has to do with your last comments about how do we grow the state and stimulate the state. You have...I believe you said over 1,700 employees in the state of Nebraska. Do you know, and again this is a little far off of the field, approximately how many of them have a four-year degree and how many have a two-year or less degree? [LB161]

BRUCE GREWCOCK: I don't know off the top of my head. I could get that information for you. [LB161]

SENATOR HARR: Okay. [LB161]

BRUCE GREWCOCK: I would guess...if I'd hazard a guess, if you don't mind, I'd guess well more than half. [LB161]

SENATOR HARR: Okay. And where I'm going with that question is, in Omaha I constantly hear, we need welders and we need people in the construction fields and we don't have enough skilled labor. And then I hear...and the people who apply oftentimes lack that soft social skills that we need to...that they need to hold down a job. In your experience, have you found that to be true at Kiewit as well that it's sometimes more difficult to hold on to some of those lower wage jobs because of a lack of soft social skills? [LB161]

BRUCE GREWCOCK: Not necessarily. I think that if you were to look at our turnover rate where our rate of where people have to...we have to get them out of the system, is it extraordinarily high. I think Kiewit, at least in the greater Omaha area, is seen as a great employer to work for. We've got great health benefits, lot of other benefits. I think people...and we do a good job of screening ahead of time. So I think our turnover rate is low as a result of, we hire good people and I think once they're there, I think they find it to be a great work atmosphere and they want to stay. [LB161]

SENATOR HARR: And I wouldn't doubt that. I guess, maybe I should ask it more skilled than it is. Do you have a lot of job openings that you find right now you can't fill because there's a lack of a properly trained work force? [LB161]

BRUCE GREWCOCK: You know, I really can't...I haven't...I don't hear our folks telling me, complaining or suggesting that's a big problem for us right now. I mean, we in the greater Omaha area, we have...we suffer the good, high-class problem with a low unemployment rate. So it does

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make it some difficult sometimes to hire folks, but I don't say that lack of good skills and stuff is a hurdle for us. [LB161]

SENATOR HARR: Okay. Well, thank you for letting me take you off what you had prepared for today and to answer some questions related to another piece of legislation, but not this one in front of us today. So I appreciate your time. [LB161]

BRUCE GREWCOCK: Well, we certainly have, you know, views on some of those sort of workplace issues and training the next generation of people whether they be skilled craftsmen or, you know, folks with engineering degrees and whatnot. I don't know how many people we hire from the University of Nebraska system but it's a significant number every year. [LB161]

SENATOR HARR: Okay, well, thank you for coming here today and again, thank you for all you do for the state of Nebraska. [LB161]

SENATOR SMITH: Senator Groene. [LB161]

SENATOR GROENE: Chairman. You kind of answered my first question, sir. If you're employee owned, why do they want to live here? Six point, 7 point, 8 percent income taxes, high property taxes, I admire you for staying here. You could give yourself a pretty good raise and move the headquarters to Texas. [LB161]

BRUCE GREWCOCK: (Laugh) Well, Senator, I was born and raised in the state. I've lived here almost most of my adult life and, you know, at the end of the day, as folks would say, it's a good place to be. I think certainly the work ethic of the folks here in the state of Nebraska is outstanding. You know, we don't have beaches or mountains, but we find even people we do move from out of the state move here, they like it here. Generally, we have a pretty good education system that they have compared to all other places. So, you know, we don't get a lot of people quitting to say I'm going to move to California. [LB161]

SENATOR GROENE: And you said you had 9,000 employees total? [LB161]

BRUCE GREWCOCK: About 9,000 staff people so these would be full-time salaried employees. We employ probably another 15,000 to 20,000 depending on activity. Craft workers, welders and equipment operators and carpenters and laborers and iron workers across all of our projects. [LB161]

SENATOR GROENE: So you run the whole project, not just the engineering part. [LB161]

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BRUCE GREWCOCK: Oh, absolutely. [LB161]

SENATOR GROENE: I didn't realize that. [LB161]

BRUCE GREWCOCK: Yes, absolutely. We hire lots of those folks and we have jobs that are across North America primarily, some that are quite small, and some that are pretty large. But we have...yeah, we hire lots and lots of people from... [LB161]

SENATOR GROENE: So when you say you have 9,000 it's not because you have another office buildings with engineers sitting in it, you have people working in the field on projects. [LB161]

BRUCE GREWCOCK: Working in the field on...superintendents, engineers, project managers working in the field on projects. We do have offices around the country where we do have some engineers. There's some group in Denver, there's a little group in Kansas City, but most of our guys are out on projects building stuff. [LB161]

SENATOR GROENE: Another question. This is a credit on taxes paid. You have to first pay taxes before you get the credit, correct? I mean if you don't make money and are not paying state income taxes, you have no credit to use, is that not correct the way the Advantage Act was? [LB161]

BRUCE GREWCOCK: I don't know. I would have to defer to our tax director here, Don, to help answer some detailed tax questions, but, yeah, from the income tax perspective, you've got to make money to pay tax. But as far as this bill is concerned, Advantage Act, I'd have to defer to Don to ask... [LB161]

SENATOR GROENE: Sales tax and a few other things other, but all right. So if you lived in a state, in a state that had no income tax for corporations or very small, they don't need a tax credit, do they, of states? [LB161]

BRUCE GREWCOCK: You know, I don't know what all other states have in terms. I don't know, for example, Texas has no income tax, whether they have any kind of programs or not. I'm not aware of it. I know I will tell you that the state of Kansas has a very aggressive program for tax incentives and for example. So, and we do have a large engineering office down there, but you know, so there are states, many states that we operate in that do have, you know, their version of the Nebraska Advantage Act. [LB161]

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SENATOR GROENE: I'm sure your tax man will be better, but at the end of the day you still pay taxes and that tax is to the state, don't you, I would think. [LB161]

BRUCE GREWCOCK: Yes, sir. [LB161]

SENATOR GROENE: I mean, credits don't wipe out everything. [LB161]

BRUCE GREWCOCK: I don't believe so and certainly all of our employees are paying personal income tax. [LB161]

SENATOR GROENE: And that's a lot. Thank you, sir. I've learned something about your company. [LB161]

SENATOR SMITH: Thank you, Senator Groene. Senator Brasch. [LB161]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Mr. Grewcock, for...I did say it right, I believe. [LB161]

BRUCE GREWCOCK: Grewcock. [LB161]

SENATOR BRASCH: Grewcock, all right, for coming here today and when I hear you want 20 more years, that gives me a nice feeling. I'm hoping that you stay the 20 more years and grow 20 more years. It is an excellent company to work for. Part of my District 16 also is Washington County where individuals from Fort Calhoun, Blair, you know, they are employed. I'm also curious on the 20 years of more time to do more. As some of the senators are away from Omaha, if you would think about growing west, young man, (laughter) growing west, and Omaha is a great town, fun to go there, but there's other opportunities I'm hoping that the companies, if not your company, but others...would you be more...and it sounds like money talks, there's these incentives. If there is a greater incentive to expand in a nonmetropolitan city, do you think people would listen to that as well? We're all about economic development here, so. [LB161]

BRUCE GREWCOCK: You know, it probably depends on the nature of the work force that's needed. You know, typically these higher paying jobs we're talking about are professional jobs and need accountants and high-skilled computer programmer types and folks that get, you know, a significant education. And, you know, if other places in the state could, you know, we build enough of a base to have...attract folks like that, I spent my younger years in Grand Island. I lived in Grand Island from age two to eleven. You know, Kiewit has built a lot of stuff across the state. Most of Interstate 80 across the state of Nebraska was built by Kiewit. So I would think it

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would be something but it would be the nature perhaps of the type of jobs that you're looking to create. You know, I'm trying to get into attracting the millennials or whomever to come and live in some of the smaller communities in Nebraska, you know, is a bit of a challenge. You know, in a state like ours where we have, you know, urban centers and then we have the smaller places. I love the places out state Nebraska and Long Pine and places like that as we've got the property out there. I love going out there but understand it's a real challenge, but whether it would motivate, perhaps it would depend upon the nature of the jobs that were going be created and in the (inaudible) we have to create the highest paying jobs out there that to qualify. And so, that might be a bit of a challenge I would guess. [LB161]

SENATOR BRASCH: Okay. All right. I again thank you for your presence in the state and your wanting to continue to invest. And I would say that brilliance is statewide that you will find able workers and scholars. And something maybe we should talk about is trying to have programs maybe where companies like yours would host, how do you get started in other locations. Thank you for coming here. [LB161]

BRUCE GREWCOCK: Yeah, okay. [LB161]

SENATOR SMITH: Senator Groene has a follow-up question. [LB161]

SENATOR GROENE: If you've got any people who like to fish and hunt, there might be some open empty buildings in Sidney. (Laughter) Anyway, just a comment. There's not much of an airport, but. [LB161]

SENATOR SMITH: Okay. Senator Schumacher. [LB161]

SENATOR SCHUMACHER: Thank you, Chairman Smith. As you might have guessed, I'm the doubting Thomas. [LB161]

BRUCE GREWCOCK: Fair enough, as it should be. [LB161]

SENATOR SCHUMACHER: And I'm a little confused right now because it was my impression of one of the ways you can claim your credits under the Advantage Act is by essentially keeping your employees' Nebraska withholding tax. And if that happens, it's not the company's tax that the state doesn't get but a tax paid by the employees of the state doesn't get. So in that respect the employees are not paying the tax to Nebraska but hang off your credits. Is that your understanding too? [LB161]

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BRUCE GREWCOCK: Yeah, I'd have to again defer to Don for some of the details. [LB161]

SENATOR SMITH: Yes, in fairness, I think we do have one of Kiewit's tax experts here and so we may want to defer some of those questions. [LB161]

SENATOR SCHUMACHER: And if that's the case, I mean, I just, you know, trying to figure out how this works in the big picture, but I guess maybe it would be more appropriate if I ask that to your tax guy. Thank you for your testimony. [LB161]

SENATOR SMITH: All right. I see no further questions. Thank you, Mr. Grewcock, for your time here, and again thank you for your investment in Nebraska. [LB161]

BRUCE GREWCOCK: Thank you. [LB161]

SENATOR SMITH: Next proponent of LB161. Welcome. [LB161]

DONALD FIBICH: Thank you, Chairman Smith. My name is Don Fibich, D-o-n F-i-b-i-c-h. I'm the tax director for Kiewit and here maybe to help answer some of your questions. [LB161]

SENATOR SMITH: All right. Senator Schumacher. [LB161]

SENATOR SCHUMACHER: Thank you, Chairman Smith. You heard my last question. How does that work, the part of it that you can keep your employees' withholding? [LB161]

DONALD FIBICH: Yeah, so on the Tier 6, it's allowed for Tier 6 where for new employees basically you can get a refund equivalent to the withholding taxes that they pay as a cash refund to the company. [LB161]

SENATOR SCHUMACHER: So, essentially, their tax money goes to the company through a roundabout way, but the bottom line is, it's headed to the government. [LB161]

DONALD FIBICH: Correct. [LB161]

SENATOR SCHUMACHER: Okay. And that revenue stream is...how much of your credits are claimed by that revenue stream? [LB161]

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DONALD FIBICH: You know the withholding credit is equal to 10 percent and overall, you know, it's...I'd have to get back to you with an exact percent. It's probably, you know, maybe 20, 25 percent, but I can get back to you if you want to discuss that later. I don't have that exact number. [LB161]

SENATOR SCHUMACHER: Now the credits that you guys have earned to date and planned to earn under your project, I guess that's what they call it, what percentage of them will be unclaimed if we don't do this? [LB161]

DONALD FIBICH: Well, looking at the credits that we've earned today, we feel we'll be able to utilize the credits that we've earned to date by the end of our current period. Where this really gets into is all the, as Bruce Grewcock mentioned, our decisions in the future and our investment in 2017 through 2022, the next six years basically, in which Kiewit is under its entitlement period under the act. We feel without an extended carryover period, we will not be able to utilize any incentives with that continued investment and hiring. [LB161]

SENATOR SCHUMACHER: And as to the question of the economics of how it would work out, if we were to get rid of the corporate income tax, exchange for getting rid of this program with future credits, good deal or bad deal? [LB161]

DONALD FIBICH: You know, I think you have to look at the Nebraska tax situation overall, not just at that tax because, you know, Nebraska Advantage Act is the law today and that's what we operate on. We would have to see what proposals the committee comes up with overall to see if that would be, you know, good. We can provide our insight and our experiences to you as you, you know, debate those decisions, but I really couldn't tell you if that's good or bad right now. [LB161]

SENATOR SCHUMACHER: Okay. Surely, it would be simpler. Finally, can you explain to us how there's currently an employees stock option plans, I think, and where a company pays some compensation to its employees by the stock options. Do you guys do that? [LB161]

DONALD FIBICH: No, we don't, sir. [LB161]

SENATOR SCHUMACHER: You don't. Okay. But if you're not engaged in that one, then I won't ask you about that. Is there...do we stand in trying to look at this out 20 years which is the nature of your request, let's say you've got a boat load of credits that you've earned and could use, and I take it, it's not mandatory that you claim those credits with each tax. You can defer not using a tax, correct? I mean using a credit... [LB161]

DON FIBICH: Right. [LB161]

SENATOR SCHUMACHER: ...and in paying the taxes instead. How does this impact our fiscal planning down the road, particularly if we project this out 20 years to have really uncertain results kind of in the hands of businesses. We won't claim a credit or we'll claim a credit because we've got to claim a credit. If we were to force all credits to be claimed, let's just say, arbitrarily in the next three years, most likely what businesses that have had those credits would do, figure out some way to maybe accelerate some of their income so they don't have a tax they could play them against. That would have a long-range suppressing effect on our revenues and maybe even trigger a short-term prices. But so all this we have no way to gauge what these numbers are going to cost us at any given point. And is there a way that we can fix the thing so we know what our exposure is and that by-gosh, we're going to have five years from now a credit bill of so much that we'd better not count on the revenues from? [LB161]

DONALD FIBICH: You know, I don't know that I have all the answers for you on that, but I mean I look at the fiscal note. You know, right now it's zero and I think that's because most of those, you know we do file tax returns with the state of Nebraska and file the credit forms. And I believe they factored those into the budgets already. And that's why there's no current. In this bill only impacts the utilization of credits beyond 2023. So, when going through the audit with the state of Nebraska, they've indicated to us that Kiewit is the first company to qualify for Tier 6. And so, if we're the first company, then the first time this bill would have an impact would be after 2023. And any other companies before they would qualify would have to meet those high thresholds of investment and hiring. [LB161]

SENATOR SCHUMACHER: But that's part of our problem from figuring out how to cash flow this boat. In that our fiscal notes go out a couple of years and the guesstimate when the Advantage Act was originally passed, likewise only went out a couple of years. The numbers are much, much bigger at least in potential numbers if they're all claimed right now. And we've lost track of how much it really cost. One of the biggest impacts in our revenue shortage is this year, in addition to some corn prices being off, is it looks like quite a few Advantage Act credits are coming in and that's causing a suppression in corporate income taxes and related taxes. So, for us to not pass on a mess to those that come after us all too quickly here, we have to get a better handle on that and why I hear you saying there's no easy answers from you. [LB161]

DONALD FIBICH: (Laugh) Well, I'm not sure how they put the budgets together and how they incorporate those numbers. I know we file our reports based on our activities on an annual basis with the Department of Revenue. And, you know, how those get incorporated into the budgets that could help you, you know, I'm not quite privy to those details, I guess, how they do that. [LB161]

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SENATOR SCHUMACHER: And you can't at this particular time give us a projection of, if you don't do it, this is what your picture is going to look like as far as Kiewit's concerned, and if you do it, this is what you're going to...it's only going to cost you so much money extra to extend it out the 20 years. [LB161]

DONALD FIBICH: And I wish I had a crystal ball so we could see what the future is but like Bruce mentioned in his testimony, you know, we're making strategic decisions every year and, you know, he mentioned we're looking at moving some jobs to Nebraska, you know, which could create more credits, you know, if we do move those here. And so to quantify those, you know, it's hard to until those actual decisions are made and, you know, the activity, the expansion in the state happens. [LB161]

SENATOR SCHUMACHER: Okay. One final question and I'll be quiet again. To the extent a tax credit says move resources from this state to that state to this state and that enters into the tax tail wagging the dog, how much inefficiency is built into the system by not having businesses where they would be if the tax credits or tax incentives just weren't there? If, for example, an ethanol producer decides because of a tax credit they're going to put an ethanol plant in downtown Manhattan, obviously not a very efficient place to put it, but if the tax credit is good enough they might consider it. Bad deal, economically, but name me a credit that's positive. How much of that really affects, really costs the system? [LB161]

DONALD FIBICH: You know, I don't know about building inefficiencies into the system, but I do know in situations like Bruce mentioned where they're going to bring jobs to the state, or when we did the data center where we opened our shared services center, I do get a call then, I'll analyze the tax climates and the different jurisdictions that they're looking at and I give them that input. You know, and I can tell them, you know, the tax climate in Nebraska versus the other locations they're looking at, and then they make...you know, they factor that into their decision. You know, it's a pretty competitive, as Bruce said, out there, you know, among the states for these, you know, high-quality, high-paying jobs and this high-dollar investment. And, you know, companies like us have to look at the economics to decide where we locate those jobs. [LB161]

SENATOR SCHUMACHER: And to squeeze one last question out and I'll be done. And that is, you just stated a position of taxes influence, your decision making, but over the last five or six years sitting on this committee, we've had a string of so-called experts of both from business and from the academic sector tell us that Nebraska isn't terribly out of line on taxes, and that it probably is not...that the tax tail is probably not wagging the dog that much. Wrong? [LB161]

DONALD FIBICH: You know, I would say, and I go back again to Bruce's testimony, as we recruit some high talent to the state, they do think of Nebraska as a high tax state. You know, so

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we, as a company we analyze it as to where we locate, you know, businesses. When I give feedback to managers, they individually, I'm sure, look at that from their personal perspective too to say, where do I want to locate a division or a department. So I do think it's a factor and you have to look at the overall tax climate of every state, you know, not just incentives. You know, look at the actual taxes, property taxes, sales taxes, income taxes, you know, you look at everything when you make those decisions. [LB161]

SENATOR SCHUMACHER: It would really be interesting to take a...give your employees a quiz and ask them what their...the Nebraska tax rate is. [LB161]

SENATOR SMITH: I'm going to recognize Senator Groene. He has a question he's been waiting here, so. [LB161]

SENATOR GROENE: Thank you, sir. I really appreciate real-life testimony, the experts sitting in a room and analyze stuff. You guys actually do it. Is the biggest advantage, the offset of the income...the corporate tax, is that the biggest advantage for you guys? [LB161]

DONALD FIBICH: I would probably say it's the sales tax refund is the biggest piece right now. [LB161]

SENATOR GROENE: And that's sales taxes on all your operations or is it when you build new facilities? [LB161]

DONALD FIBICH: It's only those facilities that are included in the projects, so not all the operations. [LB161]

SENATOR GROENE: What year period do you have to recoup that sales tax? [LB161]

DONALD FIBICH: Currently you've got the ten-year entitlement period and the one-year carryover under the current law. [LB161]

SENATOR GROENE: So, every dollar of sales tax you pay, you keep track of on any purchase. [LB161]

DONALD FIBICH: Current. [LB161]

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SENATOR GROENE: Scotch tape, anything in that facility you can be refunded for ten years. Is that correct? [LB161]

DONALD FIBICH: Correct. [LB161]

SENATOR GROENE: Not just the construction of the facility, but the sales taxes. [LB161]

DONALD FIBICH: There's two different types of claims you can get for sales tax. One is a direct claim where if it's an asset that's subject to depreciation, you can get that back as a direct claim. And then indirectly if you have excess credits, you can use those credits to get refunds of your other items. [LB161]

SENATOR GROENE: All right. And then the property tax one, when I looked at the yearly report on the Advantage Act the last couple years, I didn't see anybody claim anything on trying to get their property taxes back. Have you guys attempted that? [LB161]

DONALD FIBICH: We have. Property tax is probably a really small piece. [LB161]

SENATOR GROENE: Yeah, I haven't seen many folks go after that one. All right. And then, I haven't read this whole bill. I fall asleep about after every two pages, but anyway, I don't see you asking for that much that Tier 1 and 3 get nine years, the 2 and 4's get a 14 years, it seems...I'm assuming that Tier 6 is the really high-paid jobs and you only get a one year. [LB161]

DONALD FIBICH: And just to clarify for you, Senator, on the, let's say Tier 2 and Tier 4, they have an entitlement period but then they have up to an eight-year carryforward period. And with Tier 6, you have right now, it's only a one year period. [LB161]

SENATOR GROENE: Yeah, that's what I'm looking at, existing law. I'm trying to figure out why they only gave you one year in the first place and Tier 1 and 3 had a nine year and Tier 2 and 4 had a 14 year. So you're really not asking...you're trying to trump them with 20 years over 14, but you're not asking for anything what the other tiers already have. Am I correct? [LB161]

DONALD FIBICH: The other tiers do have a longer potential carryforward period. Right now the Tier 6 which any...in our mind did seem odd considering this is the high, you know, high-quality jobs, high investment, you know, tiers. And just to give you an example, when you look at a Tier 2 and Tier 4, I can get the exact number here real quick, but in terms of required wages, since we're...and it does vary by county, the wages that you need to have. If a company comes in and applies for a Tier 6 application today, 2017... [LB161]

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SENATOR GROENE: And you're the only ones that have done it so far, right? [LB161]

DONALD FIBICH: We're the only ones that did it and we did it in '12. And so our wage requirement was a little different in '12 because it's based on the year and the average. It goes based on 150 percent of the average state rate or 200 percent of your county. But if we were to do this project again in 2017, we would have to add jobs at the rate of \$98,184 under a Tier 6. If I was to do this under a Tier 4 or Tier 2 application, my wage requirement, 2017, would only be \$25,709. And so you can just see the higher requirement, those higher paying high jobs which gets back to the SRI study that Senator Friesen mentioned in his study, you know, the type of jobs that we need in this state. [LB161]

SENATOR GROENE: Thank you. It doesn't seem unreasonable. Appreciate your answers. [LB161]

SENATOR SMITH: All right. Mr. Fibich, thank you for your testimony. Appreciate it. [LB161]

DONALD FIBICH: Thank you, Senator Smith, and I appreciate the committee's time. [LB161]

SENATOR SMITH: Yeah, I know you'll make yourself available if there's any follow-up questions. [LB161]

DONALD FIBICH: Yes, sir. [LB161]

SENATOR SMITH: (Exhibits 3-4) Thank you. Other proponents of LB161. Seeing no other proponents. Anyone wishing to testify in opposition to LB161? Seeing none, anyone wishing to testify in a neutral capacity on LB161? We do have some letters that were submitted for the record. As proponents, those in support of LB161, the letters were from David Brown representing the Greater Omaha Chamber of Commerce and from Barry Kennedy representing The State Chamber. We now move to closing remarks from Senator Friesen.

SENATOR FRIESEN: Thank you, Chairman Smith and members of the committee. I guess I just want to...I'll go over a few points, but I guess I want to reiterate a little bit. You know as an ag producer and watching how our economy has struggled these last couple years now, this here is what kind of points out how important it is that we attract diversified businesses to the state versus companies that are always tied to agriculture or agribusiness. Because what we've seen out in the rural parts of the state is all business whether it's the farming end of it or the agribusiness is hurting. Companies like this are the ones I wish we could attract more of. They have their different cycles. I'm sure they have ups and downs in their business cycles too, but this

is the type of company I think that we could all look at and say that we would love to attract a lot more of these. When I look at the...you know, I'm not a big incentive type guy. I think in some cases if we want to incentivize businesses to come into the state we should have something maybe that targets that type of business, if that's what we're looking for. But I'm not a big fan of business. I would much rather see a lower overall tax policy and have companies come up here and say, hey, this is the place we want to be because their overall tax policy is cheap. But that's not what we're talking about here. The program was designed when I wasn't here. I didn't have a say in it and all I'm kind of saying is that I think we need to honor the contracts that we have. And I don't think we would intentionally design a program that they couldn't take advantage of tax credits. And if you look at the different tiers that are out there, we obviously in the lower Advantage Act, those tiers, I mean those jobs were not the best paying jobs. And I think the study that was done as far as, you know, what it cost us to create a job, it doesn't look so good. That's why I'm cautious of programs. But again, when you look back at the Tier 6 program that was designed, this is a company that has, you know, grown from the ground up. We might have other companies some day that could say that they've done this, but it is kind of a unique place for people to be. There's some big companies in Nebraska. But for no one to reach Tier 6, is kind of something that I think we should be very proud of. So I look at, you know, some of the questions about withholding the tax on employees as far as the pay. Well, if we look back and if they say, you know those jobs wouldn't be here, it's kind of...you can say it's like the TIF program if but for. If we wouldn't have had these incentives here, if those companies would not have located here, those jobs wouldn't be here and these programs do run out. So I look at it as a...it's a program that has worked. I'm still not a big fan of Nebraska Advantage Act and down the road if we can modify it, change it or do whatever, but what I'm interested in is making sure that the program that we did have, it's carried out and our promises are fulfilled. So if there's any other questions, I'm glad to answer them. [LB161]

SENATOR SMITH: Senator Brasch. [LB161]

SENATOR BRASCH: Thank you, Chairman Smith, and I think you make some excellent points. And I, for one, have been a fan of what benefits agriculture and what benefits all businesses as well. And as you know, our good friend and colleague, Senator Schumacher, likes to find fault in agriculture and business, (laugh) there's no winning there some days. But are there any other companies in Nebraska businesswise in this same situation or is this a one and only? Are you aware of that? [LB161]

SENATOR FRIESEN: So far this is a one and only. It's...it was designed as a high-quality, high-jobs program and you've heard the salary numbers of what they'd have to be now to qualify for a Tier 6. It's substantially higher than any of the other tiers. [LB161]

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SENATOR BRASCH: Okay. That was just my only question as I thought is there another company that we aren't aware of that are at this benchmark place in time. [LB161]

SENATOR FRIESEN: Not heard of any. [LB161]

SENATOR BRASCH: Very good. I have no other questions and thank you for introducing this bill. Thank you, Chairman Smith. [LB161]

SENATOR SMITH: Thank you, Senator Friesen, for bringing this bill. You know, I think it's good because you're addressing a broader business audience and I've heard it likened that it's kind of like a business ecosystem that we have and we have businesses of all sizes and all different types. And those businesses prosper and grow based on, you know, the certain things that drive them. In some cases it can be a better individual income tax structure. In some cases it's a better corporate tax structure and in some cases it's providing property tax relief because some of those businesses, that's their major cost. And in some cases, it's incentive programs like this. So it's kind of hard to say that one of those can work for all business types and business sizes. So I appreciate very much that you brought this bill and as we go through the next few weeks in this committee, we're going to hear a lot of discussion about other types of tax relief to benefit business growth in our state. But one thing is for certain that I think we're all working towards creating jobs and creating a better environment for our businesses to grow. So thank you for bringing this. And that concludes the hearing on LB161 and the hearings for the day. Thank you. [LB161]