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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

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[LR444]

The Committee on Tax Incentive Evaluation met at 9:00 a.m. on Thursday, September 25, 2014, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR444. Senators present: John Harms, Chairperson; Dan Watermeier, Vice Chairperson; Al Davis; Annette Dubas; Heath Mello; and Paul Schumacher. Senators absent: Greg Adams; Galen Hadley; Bob Krist; and John Wightman.

SENATOR HARMS: I'm going to go ahead and call the meeting to order if I can, please. First of all, thank all my colleagues for being here. There are, I think, three others coming that will be late...will be here. There's only two that will not be here today. So I think as we go around, since we have a lot of guests here, starting on my right, let's introduce each other.

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

SENATOR HARMS: John Harms, chairing of the LR444 and represent the 48th District which is Scotts Bluff County.

SENATOR WATERMEIER: Senator Dan Watermeier, District 1 in Syracuse.

SENATOR DAVIS: Senator Al Davis, District 43 which goes from Dawes County on the west through Keya Paha County on the east and south almost to Lincoln County.

SENATOR HARMS: And to my left is Martha Carter. Martha is director of our Performance Audit Committee. And our clerk...and I just went blank...yeah, Diane. And so thank you for being here. I want to just take a moment if I can just to kind of bring you up to date with where we are, what our plans are for the day. First of all, this is an open

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Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

meeting, but it is a work session. We're taking no testimonies today and it's not going to be televised. So this is more just of a work session. This morning presentations we'll have by the directors of the agencies. If you look at your agenda, you'll see that we'll have Department of Agriculture, Department of Revenue, and the Department of Economic Development. This was brought about because of, I think, just a general discussion we've had historically...previously. I'm not quite sure we understood exactly how these programs were administered and all the components that are in this...this aspect. So this will, hopefully, clear that up. I just want to bring to your attention, as colleagues, that LR444 is not evaluating the administration of this program. Okay? What we're really here is to identify goals and the metrics to measure those goals. So if you get very far into the administration of this, I will use my prerogative as a Chair to say we're out of order because we can't...there's not anything we can do about that aspect of it. If that's a real issue or concern as you go through all this, maybe in the future and next year you can probably address that issue. But that's where we'll be with that. And then in the afternoon, we will then address the metrics and the goals. I think the neat thing I want to bring to your attention, if you just take a moment to look at that information that the staff sent out, it's entitled, "LR444 Tax Incentive Evaluation Study--Goals and Metrics." (Exhibit 9) The really good thing about this, and I like the way that they've laid this out, it gives you your goals, give you your metrics. And in the metrics' language, it identifies what potentially could be a metric. And then underneath that, they show what we talked about in LR444 as a committee, which is good. They talk about hearing comments, whether, you know, there was someone in the hearing addressed that particular issue and what their positions were on that. And then what Pew's comments were. So you have three comments that I think are really good. It give you a lot of opportunities to look at that, give you other examples of what can be done there. Now at the very end of the day, what we would like to have is any other recommendations you're going to have. And I think it probably...what might be easier for us and for our staff, as we go through these metrics this afternoon, if you have something you would like to have added or...like if it's Metric 1 out of Goal 1, I'd like to have you just make that comment right there and say, here's what I'd like to have done.

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

Because sometimes when you get to the end of it, we happen to go to 4:00 and pretty soon you just get tired, some of those things slip away from you. So the point is let's do it right there, let's have the discussion right there and then decide what we want to do with that. Are we agreeable with that? Okay, our next meeting would be October 16. Bob Zahradnik will be here from Pew. He'll help us kind of go over that. Now, we're in hopes that in October we will have the final finished product, okay, that we'll take a position on them to move forward. Now, we're also going to...just in case that's not done or not quite there yet, we will schedule a meeting during the week of November 19. And the reason why I want to get that on your agenda and on your scope because, as we know, the closer we get to the holidays, your agenda starts to fill up both personally and with other hearings that are going to take place. We will schedule that, but I would be in hopes that we won't have to use it. Okay, it's just for a fact and it's not quite....we're not quite comfortable and we want to make some final changes. I want to make those changes and then take that position in November. Okay, so October we will hope that we will be, finished; we'll take our votes so we can move to the Executive Committee. If we're not quite ready, then in November, with the week of the 19th, then again we would have a final meeting just to make sure that everybody feels comfortable with where we are. Do you have any questions or concerns or thoughts about that? I feel comfortable with where we are. I went through this pretty carefully, Martha can tell you, with a fine tooth and comb. The teacher comes out in me, you know, kind of like reading, English class, and some of the things there, but I...there's just a lot of great information in there. There's also, when you look at Pew, there's things in there that...items and suggestions I'm not sure you can measure. And so keep in mind that everything we want to accomplish here is to be able to identify the goal and to be able to measure that goal. And again, I just want to caution you about the fact is that as our presenters present today more of a general education and knowledge for us to have a better understanding how the program works, how it functions. If you get too far into the administration of it, I'm probably going to stop you. And I'll apologize to you now for that, because I know you don't want to...you know, you hate to be interrupted. But I just don't think we can go there. This is not what the intent of this is. And so, it's another...there will be another

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

opportunity a year from now if you want to do that. We can do another study. Any concerns about that part of it? Any questions? Okay, well, then we'll start a meeting if we could. Karla, Department of Agriculture, would you like to come up, Karla. Just for our records, just spell your name and introduce yourself. Karla, thank you very much for coming and being a part of this. [LR444]

KARLA BAHM: Thank you for having me. [LR444]

SENATOR HARMS: Yeah. You're welcome. [LR444]

KARLA BAHM: (Exhibits 1-3) I'm Karla Bahm, program administrator for the Beginning Farmer Tax Credit Act with the Nebraska Department of Agriculture. And Karla is K-a-r-l-a, last name is B-a-h-m. And thank you for having me here today. I've given some handouts. Basically, you're receiving our brochure that we give to potential participants; a little table of some statistics about the program in regards to participants and tax credits issued, some general information. And then the last sheet is really just some references to some articles that have come out this spring, doing some comparative results between the 2007 and 2012 census, and in regards to beginning farmers and Nebraska. So I thought that those might be of interest to you. So I'm, basically, going to just give you a Beginning Farmer Tax Credit 101 a little bit. I will share that we have just recently given it a new look. We were always known as the Beginning Farmer Program. In July we did a renaming and kind of a new face-lift. It is now known as NextGen. One of the reasons for that was to differentiate it between some of the other beginning farmer programs that were out there and to make it a little bit more inclusive to include both generations. Often when we were at trade shows and what have you, when the...we need both parties, we need the existing landowner, established farmer or rancher, and we need the beginner for the program to work. And so often when they would see "beginning farmer," you know, it would kind of eliminate the other generation. So just wanted to bring that to your attention. The program was created in 1999 and passed...put into place then. And it was created out of a concern of

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

our aging population of farmers and ranchers, who would be their successors, what did the future of Nebraska agriculture look like, and how could we help that next generation transition into farming and ranching to keep that industry active. And some of the biggest challenges we hear from beginners is getting access to ag assets, competing with the established farmers and ranchers, land prices, rental rates, those types of things. So the Beginning Farmer Tax Credit Act provides a tool for those beginning farmers to use when they're out there trying to attract landlords. And that tool is a Nebraska state income tax credit, a refundable tax credit. And how that works is if a landlord will take a risk on a beginning farmer, an eligible beginning farmer, and enter into a three-year lease with that beginning farmer, then that landlord is eligible for Nebraska state income tax credits. Those credits are based on the type of lease that they enter into with that beginner. If it is a cash rent lease, the tax credit is 10 percent of the annual cash rent. And that is each year of the three-year lease. If it's a sharecrop arrangement, the tax credit is 15 percent of the owner's share of the crop. And we have a format and a projected market price that we use to put a value to that when we're trying to determine what that tax credit will be. There are really kind of three components to the act that are benefits. The first one we just talked about which is the income credit for the landlord. There is also a personal property tax exemption for the beginning farmer. So if that beginner owns their own farm equipment and machinery and are paying taxes to the county assessor, if they are approved into the program they can be exempt from paying those personal property taxes up to \$100,000 valuation of equipment and machinery. So that's a benefit to the beginner. The other benefit is, is that they just...they get a three-year lease, they get an opportunity to foster a good relationship with that landlord, hopefully, for a long-term relationship; hopefully, maybe a potential successor of that farming operation. The third component is a reimbursement in the form of a Nebraska state income tax credit for completion of an approved finance management course. A finance management course is an eligibility requirement for the beginning farmer who is applying to the program. And so if they take that...take a course, they can be reimbursed for the cost of that course up to \$500 in the form of a...in state income tax credit. There are eligibility requirements for the beginner. They

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

are listed in your...in that trifold brochure, but I'll go through them really quickly. They must be a Nebraska resident. They must have farmed less than 10 out of the last 15 years; have some farming or ranching experience or education. We wanted it...provide the majority of the day-to-day management and labor of the operation. We want it to be their intent to farm or ranch full time. We understand that it may take several years to get there, but we want that to be their intent. And then they have to have participated in an approved financial management course. The requirements for the landowner are really that they own a Nebraska ag asset. And an asset for this program is...can be cropland, can be pasture ground, can be livestock facilities, can be farm equipment and machinery--grain bins, pivots, that sort of thing. So all of those would be eligible under this program for the tax credit. In 2009, they added a provision to allow leases between family members. Initially when it was passed in 1999, they did not allow leases between close family members to participate in this program. But they did make that change. However, they do have a couple of extra hoops to jump, which is attend a succession workshop and have a succession plan in place: How is that asset in the three-year lease going to transfer to that family member down the line? So we have that also. The process, basically, is that they apply to the program. The beginning farmer has much more...many more documents to provide and proof of eligibility to provide. The landlord really simply just has a simple two-page application and needs to provide a copy of the lease. The landlord needs to provide a four-page detailed application with a net worth statement, a projected cash flow analysis, proof of their financial management course, a soil conservation nutrient management plan. Then those documents come into our office and it's our responsibility to just kind of go over them with a fine-toothed comb. We have a board of directors that actually votes on approving applications to the program. And this has been a really good board. They've been together...most of them have been together since 2007 and they all bring an expertise to the farming and ranching industry. And they're just really a very cohesive unit. So we have worked with them long enough that we kind of know what our red flags...what some of the red flags are they might question. They do take their responsibility very seriously. They go over those applications very closely also. So once an applicant is approved, then the tax

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

credits are issued on an annual basis, and we provide a 1099 Form and they submit that with their state income tax return when they file. If for some reason the board does not approve an application, they table it, give us an opportunity...give our office an opportunity to go back to those applicants and give them an opportunity to address issues that the board may have seen at that point. So that's pretty much it in a nutshell. [LR444]

SENATOR HARMS: Thank you. Do you have any questions? [LR444]

KARLA BAHM: Yes. [LR444]

SENATOR HARMS: Senator. [LR444]

SENATOR WATERMEIER: Thank you, Mr. Chairman. Appreciate your report. I kind of forgotten some of the details on that. Talk to me just a little bit about the personal property tax exemption. Do you track data at all? [LR444]

KARLA BAHM: We don't. And to the best of my knowledge... [LR444]

SENATOR WATERMEIER: Now that would be a county, by county. Their revenue would be reduced. [LR444]

KARLA BAHM: Yes. [LR444]

SENATOR WATERMEIER: So the state really doesn't have anything do with it. [LR444]

KARLA BAHM: Right. [LR444]

SENATOR WATERMEIER: That's why it makes it difficult. I see Greg nodding back there but... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KARLA BAHM: Right. Right. [LR444]

SENATOR WATERMEIER: So that's not probably prohibitive to the counties. We're talking usually 2 to 3 percent. If you have \$100,000 of value, I think it's usually 2 to 3 percent value (inaudible) tax. [LR444]

KARLA BAHM: Right. I don't think it's a big amount. [LR444]

SENATOR WATERMEIER: Right. So you've never tracked it though. [LR444]

KARLA BAHM: No, and... [LR444]

SENATOR WATERMEIER: (Inaudible) people are using it. [LR444]

KARLA BAHM: Yes, we're issue...they're applying to the program for it... [LR444]

SENATOR WATERMEIER: They are. [LR444]

KARLA BAHM: ...and we're issuing eligibility certificates... [LR444]

SENATOR WATERMEIER: Okay. [LR444]

KARLA BAHM: ...for them to take in to their county assessor to put it into place. [LR444]

SENATOR WATERMEIER: But you don't know whether they actually use all or part of it or (inaudible). [LR444]

KARLA BAHM: We do not. And to the best of my knowledge, I tried to do some checking; I don't believe that any of those counties have to report that, you know, how

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

many participants...how people are actually claiming that and what that dollar amount is. [LR444]

SENATOR WATERMEIER: I'm just more curious. I'd just forgotten about that part of the equation. [LR444]

KARLA BAHM: Yeah, yeah. And that just went into place in '09 when they made some of those changes. [LR444]

SENATOR WATERMEIER: Oh, it did. Okay. [LR444]

SENATOR HARMS: Do we have any other questions? Al. [LR444]

SENATOR DAVIS: Thank you, Mr. Chairman. And thank you for coming, I appreciate that. Of the...you have had about 1,206 applications all...or approved applications. Can you tell us how many were not approved? [LR444]

KARLA BAHM: I can't, but there...I don't have those numbers, I apologize. There's very few that don't get approved. We still have some people that don't meet the eligibility requirements that still try to apply. One of the biggest eligibility requirements that is kind of questioned is that \$200,000 net worth limit. We had some that say--well, just go ahead and see if they'll consider it, and I know that they won't, but we've still gone that route. Or sometimes they've had some errors in their net worth statement that we've noticed and that may take that out, you know, some addition errors or what have you. So that would be the issue. But most of them that aren't approved usually can get rectified. So I...the number is very, very small. [LR444]

SENATOR DAVIS: And with regard to the in-family arrangements, that looks like a very difficult area to sort of monitor. Would that be true? [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KARLA BAHM: Monitored to what respect? [LR444]

SENATOR DAVIS: Well, I mean how do you demonstrate that this is a really legitimate beginning farmer? [LR444]

KARLA BAHM: Right. That is somewhat difficult. But as long as they meet all the eligibility requirements and provide all the documentation, we really don't have basis to deny them, basically. That's why that succession plan form is a requirement. [LR444]

GREG IBACH: I might add in here that she referred to her board and, you know, they have banking experience, they have... [LR444]

SENATOR HARMS: Would you, excuse me, would you please come up forward, sit, and then give us... [LR444]

GREG IBACH: I'm Greg Ibach. I'm the director of the Department of Agriculture. G-r-e-g I-b-a-c-h. [LR444]

SENATOR HARMS: Thank you. [LR444]

GREG IBACH: And so that board has a wide variety of experiences and they're pretty critical about how they look at the applications. And so...and, you know, I think they view some of their role as instructive, as well as just administering the program. And so they...I think when she talks about the low denial rate, that doesn't mean that there's a lot of applications they don't go back and say: You didn't fill them out properly; we're not going to approve them until they're filled out properly. And I think that when you're looking at those family transactions, they're fairly critical of those to make sure that they're not taking advantage of the tax credit and not actually, you know, considering that transition and moving the young person into...you know, that's one of the big problems we have in the farm community is that succession planning and that transition

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

from one generation to the next. You know as well as I do that sometimes you see examples of 60-year-old people that are finally get to start making management decisions on the farm and ranch they've lived their whole life on. And so, hopefully, this can be a tool to help us help people start thinking about that earlier. [LR444]

SENATOR HARMS: Thank you, Senator Davis. Do we have any other questions?  
Senator Mello. [LR444]

SENATOR MELLO: Thank you, Senator Harms. And I apologize for being late, getting up from Omaha today. It's a quick follow-up to Senator Watermeier's question, the lack of tracking on the personal property tax exemption. Is that because there was...there's no requirement in statute to do that, I assume? [LR444]

KARLA BAHM: No, not that I'm aware of. I don't believe there is a required statute to report that. [LR444]

SENATOR MELLO: But we granted it but we just...so we granted it in statute, but we just don't track it for our purposes of this program. [LR444]

KARLA BAHM: Right, that I'm aware of. [LR444]

SENATOR MELLO: Okay. Okay. [LR444]

SENATOR HARMS: Thank you, Senator Mello. Senator Schumacher. [LR444]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. A couple of questions on it: Can a beginning farmer be a corporation? [LR444]

KARLA BAHM: They can. They can. If it's...they still have to...if their corporation...their net worth has to still meet the requirements. So if the... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: Net worth of the corporation or the individuals holding stock in the corporation? [LR444]

KARLA BAHM: The individual holding stock in the corporation, I believe. Do you recall? [LR444]

GREG IBACH: I think it'd be the corporation. [LR444]

KARLA BAHM: Is it the corporation? I think it's the corporation. [LR444]

SENATOR SCHUMACHER: So you could set up a shell corporation and qualify for the \$200,000. [LR444]

GREG IBACH: You still would have to be farming less than 10 out of the 15 years. You'd have to meet that requirement to be a beginner. [LR444]

KARLA BAHM: Right. You'd have to meet all of the requirements. [LR444]

SENATOR SCHUMACHER: The principal would have to be. But other than that, you can beat the system by just setting up a corporation and with less than \$200,000 net worth. [LR444]

GREG IBACH: I think all parties have to meet the requirements. [LR444]

KARLA BAHM: Well, if...yeah, I know in a partnership and an S corp, all parties have to meet the eligibility requirements. So they...and the act states that they have to have a family net worth below the \$200,000 limit. So that's all of their... [LR444]

SENATOR SCHUMACHER: And family is...? [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KARLA BAHM: Family is spouse and dependents, all their assets minus all their liability. [LR444]

SENATOR SCHUMACHER: So all the equity... [LR444]

KARLA BAHM: So any equity in a corporation would be included in that. [LR444]

SENATOR SCHUMACHER: So if it's a corporation applicant, all the equity holders in the corporation, combined net worth has got to be less than \$200,000. [LR444]

KARLA BAHM: I believe so. I don't know...I don't know in my time that I've had that issue come up. Most of our applicants are sole proprietors or a partnership on the beginning farmer side. [LR444]

SENATOR SCHUMACHER: What is it that...besides the \$500 to take the financial course, what is it that the beginning farmer gets out of this? [LR444]

KARLA BAHM: Out of participating in the program? [LR444]

SENATOR SCHUMACHER: Yeah. I mean what, you know, what...I'm a beginning farmer and I'm going to do this. What am I going to get? [LR444]

KARLA BAHM: Yeah. Right. It gives them a competitive edge when competing with some of the existing farmers and ranchers. We've actually seen some leases come through where the landlord is giving them a break on the cash rent because they're getting the tax credit. There's a lot of landlords out there that got help to get started and they want to help somebody else so that they get a three-year lease as opposed to a year-to-year lease. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: But if they don't pay the rent, can that three-year lease be terminated at the end of the first year? [LR444]

KARLA BAHM: Yes. Most... [LR444]

SENATOR SCHUMACHER: It's an ordinary lease. [LR444]

KARLA BAHM: It is an ordinary lease. [LR444]

SENATOR SCHUMACHER: Okay. And is there an obligation for the landlord to rent them the rent (sic) below market value? [LR444]

KARLA BAHM: Absolutely not. [LR444]

SENATOR SCHUMACHER: Okay, so... [LR444]

KARLA BAHM: Whatever they agree to in their lease. [LR444]

SENATOR SCHUMACHER: Okay, so basically then, looking at these numbers, this is a...could be a \$5,000 to \$7,000 a year average bonus to the landlord, nothing to do with the young farmer. [LR444]

KARLA BAHM: Well, that young farmer is getting a three-year lease as opposed to a year-to-year lease. [LR444]

SENATOR SCHUMACHER: But it can be terminated if he doesn't pay the rent. [LR444]

KARLA BAHM: If he doesn't pay the rent, right. [LR444]

SENATOR SCHUMACHER: And what additional risk is that to the landowner? [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

GREG IBACH: So what it does is it incents...we're trying to...the Legislature tried to incent benevolence or incent established farmers and ranchers to look at beginning farmers rather than look at the guy in the neighborhood that's already farming 5,000 acres and say, you know, I know he's going to pay my rent; I know he knows what he's doing, I'll just give it to him. And we're creating an incentive to go out there and find a beginning farmer. And, yeah, there is some risk that maybe, you know, you're going to have to help him out a little bit, there's some risk that you might not get paid. A lot of these guys are taking that benevolent side of it seriously and so they negotiate, they figure out, this is what I can get on the marketplace. Okay, young guy or gal, I will rent it to you for 92 percent of that going rate. I'll make my...I'll get the tax credit, I'll get a hundred percent, but you get a chance to rent it and you get a break and you get to start farming. [LR444]

SENATOR SCHUMACHER: But the program incents that behavior, but it doesn't mandate that behavior. So what's stopping this from just being a 10 percent bonus to the landlord with only marginal, if any, benefit to the young farmer? [LR444]

GREG IBACH: Nothing. [LR444]

SENATOR SCHUMACHER: Okay, thank you. [LR444]

SENATOR HARMS: Thank you, Senator Schumacher. Senator Watermeier. [LR444]

SENATOR WATERMEIER: Mr. Chairman. I think, Senator Schumacher, I can maybe answer it in the fact that it's so scarce to get a land lease. It's just like gold to be able to have the opportunity to get another land lease in your hand. That that's the opportunity that we're trying to build. The new beginning farmer cannot get his foot in the door to get that lease. And so that's where the program is designed to provide that opportunity, at least that's the way I see it. Director Ibach, he might (inaudible)... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KARLA BAHM: Right. Yeah. It's to incentivize that landlord to... [LR444]

SENATOR WATERMEIER: Senator, it's just such a thin environment anytime land has changed hands. It's just so rare. That that's the key to it right there. [LR444]

SENATOR SCHUMACHER: So, basically, what the bottom end of this program is, I'm willing to give an average of \$5,000 to \$7,000 to a landlord who rents to...without very much increase in risk to a beginning farmer, who does not necessarily have to be a young farmer, but has got to only have \$200,000 worth of net worth, which in the farm environment, as far as equipment and stuff like that, isn't very much. [LR444]

SENATOR WATERMEIER: He has to have no more than \$200,000 before he's going to qualify for this. [LR444]

SENATOR SCHUMACHER: Right. [LR444]

SENATOR WATERMEIER: Yeah. Yeah. [LR444]

GREG IBACH: So I think, maybe, if you're looking at measurements of our successes in this program, you know, and that's why I think Karla handed out the census data that she did that you see that in the period from 2007 to I think (inaudible) census numbers, Nebraska grew in the number of farmers under age 35. That is...and we actually grew in total farmer numbers a little bit, if I remember right. [LR444]

KARLA BAHM: I believe so. [LR444]

GREG IBACH: And that's a trend where we're bucking the national trend. There are very few states that can say that. And so, you know, part of it is because of the farm economy and more people ask their kids to come home to the farm. But part of it is also

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

because there are programs out there, the federal programs as well as the state program, that say to our younger generation that, yeah, we're interested in having you come back; we're interested in investing in you and trying to find a way for you to be successful in agriculture as a career...in production agriculture as a career. [LR444]

SENATOR HARMS: Thank you, Senator Watermeier. Senator Davis. [LR444]

SENATOR DAVIS: A couple of other questions: Do you have any repeats? [LR444]

KARLA BAHM: Do we have any...yes, we have...the tax credit is tied to the asset. So the asset can only be in the program one three-year period. But as long as a beginning farmer still meets the eligibility requirements, they can add additional landowners, they can additional leases, and we have seen that. We have seen that a beginning farmer has applied to the program and been approved and then that landlord, you know, another year down the line has obtained other ground and entered into another three-year lease with that beginning farmer. Or that beginning farmer has been able to use that initial landlord as a reference and picked up another landlord. A landlord can have several different beginning farmers also, as long as they have leases and that the lease is tied to a separate asset. [LR444]

SENATOR DAVIS: And do you have many that are multiple beginning farmer participants in terms of the landowners? [LR444]

KARLA BAHM: We do. We have some. We have some. [LR444]

GREG IBACH: A handful. [LR444]

KARLA BAHM: Yeah, probably just a handful, not very many. [LR444]

SENATOR DAVIS: You had 129 applications in 2009, then it dropped off significantly.

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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

Do you know why that was? [LR444]

KARLA BAHM: Uh-huh. Because that's when the personal property tax exemption came into play. That wasn't before then. And we had a deluge of applicants that were applying just for a personal property tax exemption. So that was the difference in that. [LR444]

SENATOR HARMS: Thank you, Senator Davis. I...you have another question, okay. [LR444]

SENATOR DAVIS: I've got one other question. What kind of federal programs are available for beginning farmers? Are you aware of those? [LR444]

KARLA BAHM: There are. Farm Service Agency has operating...low-interest operating loans and also loans for purchasing land. So those would be the most common. Nebraska Investment Finance Authority has some low-interest loans for beginners. Farm Credit Services has some low-interest loans for beginners. There are different...there is a network that we belong to of different federal agencies: FSA, NRCS. Center for Rural Affairs is in that network. You know, there are different grants out there that different agencies apply for and that are geared towards helping beginning farmers. And so there's a lot of different resources out there for beginners. But I believe ours is unique; the tax credit is unique. There is only one other state, that I am aware of, that has a similar program, which is Iowa. We have had inquiries from other states, South Dakota, Wyoming, I believe, that have wanted to know how our program works because they're looking at putting something into place. [LR444]

SENATOR DAVIS: Would you be able to get us a county-by-county document on that...on how many participate within each county? [LR444]

KARLA BAHM: Yeah, I do actually have a map that has the number of participants by county in year-by-year. And I could provide that to you, yes. [LR444]

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Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DAVIS: And then just the last question: How do you verify the balance sheet and income statements are accurate? [LR444]

KARLA BAHM: Well, we require the beginning farmer and then a professional sign off with an accuracy statement. So they're...you know, they're just verifying on their own. [LR444]

SENATOR DAVIS: Like an accountant or a banker. [LR444]

KARLA BAHM: Yes, an accountant. Many of them are already in the FSA office, so it will be an FSA agent or an accountant or their banker, tax preparer. We've seen that also. [LR444]

SENATOR DAVIS: Thank you. [LR444]

KARLA BAHM: Um-hum. [LR444]

SENATOR HARMS: Thank you, Senator Davis. I just wanted to remind us as colleagues that the Department of Agriculture simply administers the program; they didn't create it. And the creation was done by our colleagues. So keep that in mind as you go through this. If there's something we don't really care about, don't like, you know, in future legislation you can do that. But just keep that in mind, they only administer what we gave them to administer and to create. So if you'll keep that in mind, I think it sets the picture easier for Karla and anyone else who testifies. Senator Schumacher. [LR444]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. Just a couple of questions based upon this handout you have. The number of farms increased by 4.7 percent. Did the average size of the farm then go down in Nebraska? [LR444]

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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

GREG IBACH: Yes, slightly. It's like from...I can get you those census numbers. But if I'm recalling correctly, we went down from like 750 to 719 or something like that. So, yeah,... [LR444]

SENATOR SCHUMACHER: I mean does the math work... [LR444]

GREG IBACH: ...with more farms the same number of acres that resize goes up. [LR444]

SENATOR SCHUMACHER: Right. Does the math work out and the...? Then the other thing, this points to an increase in the number of young farmers from 25 to 34 years old. Do we have any way to detect why that...that that number of farmers increase in that age category was due to this program instead of just the normal thing that you add a generation onto this and people...the older farmers turning 65 going on Social Security and his kids taking over. So this week we're going to expect this just as a matter of the demographics and the baby boom and has nothing to do with the program. [LR444]

GREG IBACH: Well, we have a long history in the United States of the number of farmers declining and the number of beginning farmers declining while the average age of the farmer gets older and older and older. So just the fact that, you know, Nebraska has somewhat bucked that trend, I think, is positive. Now to be presumptuous enough to say that it's this program that's changed that type for Nebraska, that's not responsible. But I think when we look at...like I mentioned before, profitability returned to farming in that window, there's more optimism around the future of agriculture in that 2007 to '12 window. We have, you know, what we've experienced with the Nebraska Agricultural Youth Institute that the department has held for 43 years is 2005 is probably our low watermark as far as number of kids that applied and wanted to attend that. This year, we set our all-time record going back to the early '80s, late '70s when, you know, we had lots of people involved in agriculture then. And so I think overall we have more

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Transcriber's Office  
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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

youth excited about farming, we have parents talking about it. And so, you know, when you add that in with there's tools that encourage it and facilitate it, I think, you know, you can't point to any one thing and say this is why. It's a combination of things. There's lots of agencies on the federal level, private level, and our state level that have gone into play to help facilitate that. [LR444]

SENATOR SCHUMACHER: Am I reading this chart right that, basically, in the 12 years between 2001 and 2013, 561 people have... [LR444]

KARLA BAHM: Have applied to the program. [LR444]

SENATOR SCHUMACHER: That's...and so somewhat fewer than that have actually been helped by the program? [LR444]

KARLA BAHM: Yes, that would be true. Those would be applicants that we...applications that we have received. [LR444]

SENATOR SCHUMACHER: Okay. And the total amount of credits that their landlords got was about \$6.5 million in that period. [LR444]

KARLA BAHM: Correct. Correct. [LR444]

SENATOR SCHUMACHER: And this somewhat less than 560 represents what percentage of the...the number of farmers under age 35 jumped from 3,300 in 2007 to 4,700 in 2012. That would be about 1,400 and that's for a shorter period. So about, in that category, about a third get some benefit from this program? [LR444]

GREG IBACH: That's how the math works out on it, yeah. [LR444]

KARLA BAHM: Right, right. [LR444]

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Transcriber's Office  
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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: That's how the math works. Okay. Does the math accurately reflect (inaudible)? [LR444]

GREG IBACH: I don't know that those 1,400... [LR444]

KARLA BAHM: I don't know that you can correlate the two. [LR444]

GREG IBACH: Yeah, those 1,400 people were the 500 that...you know, a third of them. Maybe some of the...the 1,400 growth, maybe it was part of that other number too. [LR444]

KARLA BAHM: Yeah. [LR444]

SENATOR SCHUMACHER: Thank you. [LR444]

SENATOR HARMS: Thank you, Senator Schumacher. Senator Davis. [LR444]

SENATOR DAVIS: Just so that we kind of understand, maybe I'm not getting this, but...so 1,206 owners receive the tax credit and 934 beginning farmers paid rent, but 561 applications? I guess I'm confused about what that means. [LR444]

KARLA BAHM: Well, because you have...you have...number of beginning farmers paying rent. We have some owners that have multiple owners in a corporation, so the tax credits...maybe one application, but you may have eight payees. Okay. We have some families and so each of those...or a trust, and each of those siblings gets a portion. So that would be why the numbers. [LR444]

SENATOR DAVIS: On the owners? [LR444]

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Transcriber's Office  
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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KARLA BAHM: On the owners. We have some beginning farmers that are in it with partners, a couple of brothers, you know. We have a couple of cousins in the program, so those numbers aren't...it's hard to make a correlation between the numbers. [LR444]

SENATOR DAVIS: Okay. And then it looks like the total rent has been declining. Also the tax credits paid to the owners has been declining since 2009. We talked a little bit about the personal property tax credit that year, but is there any explanation for why we've seen this decline? [LR444]

KARLA BAHM: I don't have an explanation. I do know that a couple of...the earlier applications were for some big pieces of land, some thousand acres. And our...the majority of our applications these days are not that large. So there were some applications earlier on in the program that were considerably bigger. [LR444]

SENATOR DAVIS: Bigger. Thank you. [LR444]

SENATOR HARMS: Thank you, Senator Davis. Do we have any other questions? I also would like to welcome Senator Dubas and sorry, Senator Mello, welcome both of you to our meeting. Do you have any other comments you'd like to make? [LR444]

KARLA BAHM: No, I don't believe so. [LR444]

SENATOR HARMS: Thank you very much for your testimony, we appreciate it. Thank you. [LR444]

KARLA BAHM: Thank you. [LR444]

SENATOR HARMS: Kim Conroy, Tax Commissioner. Kim, thank you very much for coming; we appreciate it. [LR444]

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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KIM CONROY: Exhibits 4-7) Oh, thank you. Chairman Harms, members of the committee, thank you for inviting us to come talk about the administration of the Nebraska Advantage Programs. I would also like to thank Martha Carter and her staff for the work they've been doing with us the past couple of years on the Performance Audit side. My name is Kim Conroy, K-i-m C-o-n-r-o-y, Tax Commissioner for the Nebraska Department of Revenue. I'm appearing before you today to discuss the administration of the incentive acts, primarily the Nebraska Advantage Act. I just gave a presentation one month ago on the Nebraska Tax Incentive annual report which went into more of the details of the program and the financial results for the year. That's not what I'm going to talk to you about today. I'm going to talk purely about the administration of the programs. And I'm going to wrap that around what you're looking at. You've been looking at metrics; you've been looking at goals. Part of that is accumulating information as to whatever metrics or goals you might pick and then how to evaluate those goals that you're looking at. I thought it would be beneficial for you to go through with me the administration so you can see where we do collect information from the taxpayers. You'll see that most of the information we collect right now is confidential, except for what I went over with you in the annual report. But everything else that we collect on the different forms, applications, is confidential information. But these are the mechanisms through which we collect information. So as you're looking at this, I thought that would be good for you to see what we have in place right now compared to what you're looking at where we would gather it. Would it have to be new forms? Would it have to be new applications that would be provided to the department. On the outline on page two, I'll go through a brief overview of the program since we went through it last month, and I think most of you were at that presentation also. We'll go through the steps in the process of what it takes to successfully complete a project and actually start getting tax credits. We'll go through the application. In your packet information, along with the PowerPoint, you have four pages of the application, not all of them. So we'll go over the application. The agreement comes after the application. There's two copies of a sample agreement that we have for the committee. I didn't think, because of the length of them, I didn't think you...all of you would want a copy of that.

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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

There also are sample agreements available on our Web site under the tax incentive pages. We'll next talk about the annual reporting requirements. You have two copies of the 312N. It also is a rather lengthy reporting requirement that companies have to do. So there's two copies of that available to you. That is also available on our Web site. Before you can start earning, I mean before you can start using the credits, you have to go through the qualification audit. You'll then file for tax benefits. You have some forms in front of you, including the Form 7-I and a 3800N--this all sounds like Greek, doesn't it--and the 312P. We use the acts' name for many of our form names. That Nebraska Advantage Act was LB312. That's what the 312N, 312P stand for. And then we'll talk briefly about maintenance audits, what happens after you've qualified, after you've started to earn credits, what do you have to do. Under this performance-based system, you not only have to attain levels, you have to maintain them through the entitlement period. And then on page 3, our other incentive programs, all mentioned today. We'll talk about the Rural Development Act, the Micro Enterprise Tax Credit Act, and the Research and Development Act. The other programs that were in the annual report, I will not discuss the administration of those. We're no longer accepting applications on those programs. So then the overview of the Nebraska Advantage Act was what we went over with you. If you need investment and/or employment levels, you can qualify for the tax benefits. You have copies of Department of Economic Development's great summary. As I said before, this is what I use all the time. It goes through all the tiers, attainment levels, entitlement periods. So your tax benefits depend on what you select. Steps in the process on page 6 of the PowerPoint, and I'll go through some of these in more detail. But an application is submitted. The department has to approve or deny that application within 180 days. That was a change from LB34. And then we send an agreement within 180 days. We pretty much simultaneously, once the application is approved, we will send an agreement to the taxpayer at that point in time. We have annual reporting requirements on the 312N. You have to, as a taxpayer then, you're going to work during that period of time to attain your investment in employment levels. You'll complete that qualification audit. We're going to wait for you, the taxpayer, to ask us. You're the one...the taxpayer knows when they've met levels, or hopefully they know

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Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

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that. They've been tracking investment and tracking employment. A qualification letter is issued by the department which is important because you have to have that before you can start to use your credits or get refunds. Those refunds are obtained by filing that Form 7-I, or credits are used by filing a Form 3800N with your income tax return for the year. The application: You each have a piece of that application in front of you. Why is the application important? It establishes the base year for employment. That's an important number. You as the taxpayer are making a decision when to apply, because the prior year is going to set your base year. You have to then go over that base-year period. We also will establish your investment levels that you've applied at and the required wage levels. Realize we issue a revenue ruling every year where sometimes those levels go up. They haven't been going up very much lately, but the wage levels, typically, do change. That application--the taxpayer defines the scope of their project. They're the ones that decide where the project is, what locations are in the project. If they have more than one location, they need to be interdependent with each other. The application will go through that, walk the taxpayer through that. And then you have to tell us what activities or entities are not included. If you have more than one entity, if you're a big corporation, which entities are included, which aren't included; which locations within the state do you want include, because you can exclude locations if you want to. And as I said before, we do those thresholds annually. It doesn't mean if you've already applied they have to keep going up. That's for new applications that occur. On page 8 of the PowerPoint, the department's application review: What does the department do with the application once it's received? We try hard to let you know that you have an application date. Why is that important? Your application date, you need to have that before you make any investment or hire new employees. If you don't have an application date from the department and you start making new investment or hiring new employees, those are going to occur before you applied. So we work hard to let the taxpayer know. If we have everything they need from them that's required to set an application date, we let them know, here's your application date. If they haven't given us everything we need, we send an e-mail out to them and say, here's what we need, try to get this to us as soon as possible; if you need to FedEx it to us, do it, but you need to

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

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get this information to us so that we can set that application date for you. We typically have more correspondence as a result of the application. Our tax incentive group goes through the application closely because we want to make sure up-front that you qualify, that the business you're in qualifies, that what you're doing qualifies. We don't want to wait until four or five years later when we come out to audit you and say, oh, doesn't look like you probably were even eligible to be in the program. We're going to do all that...try to do the most of that work that we can up-front so that we know they have a solid project; so that they know they have a solid project going forward. You have those qualifying business activities there in the DED brochure. We have to make sure you're fitting within one of those. If not you entirely, typically there's going to be pieces of what you do--headquarters or administrative management--that might qualify for the Tax Incentive Act. If you have those nonqualifying areas, we have to make sure that you can properly segregate them. Can you segregate what you're buying for investment, employees? Can you properly set up your accounting system so that when we come in and audit, you don't have things intermingled? We also confirm that you're registered for E-Verify. We ask that you send us in a confirmation letter that you've received from E-Verify. E-Verify was set up several years ago so that we can verify your right to work in the United States through the Homeland Security and the Social Security Administration. That's an important question on the application, because you're affirming on the application that, yes, you are signed up and will be using E-Verify for all of your newly-hired Nebraska employees. After those steps go through, we will approve or deny your application. After that, we send an agreement to you. Now the application form, if you want to go ahead and pull it out, and that's...you have a few pages there. We have two different applications that we're using right now. One fits most tiers, and that's what you have here in front of you--Tiers 1 through 6. We had a separate application for a Tier 2 large datacenter. On this application you have in front of you, for the Tiers 1 through 6, you'll see some of the things that we've already talked about here on the first page: Are you an eligible taxpayer? You can't be a political subdivision or a nonprofit entity. Are you agreeing to and have you registered for E-Verify? You pick your tier, which is the next table there, and then you pick what types of qualifying

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

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business activities you are in. Some of them vary by tier, so that's up to the taxpayer to pick what type of activities am I doing. And many are doing more than one when they go through this list. On that second page then, you have to give us what you expect, what you expect your new investment and new employment to be on 4A. On 5, you're going to give us a timetable of what you expect your refunds to be, your sales and use tax refunds by year. We require this information to be filled out by you. You also have to give us information about yourself. Are you licensed for sales and use tax, withholding? If you're a new company, you have to agree that you're going to get licensed with us, so that walks you through the steps there and asks for copies of tax returns from you. On the next pages, and I didn't give you all of them, and I can just explain it briefly, is if you have more than one entity in your unitary group, you need to go through and explain what your different entities are, what your different companies are and what they do and where they're located. The other page deals with project applicant that has more than one location. They might have several locations throughout the state or even within town. So you need to give us the information as to the actual address and where these locations are and how they're going to interrelate with all of the other locations. That's the application and that's the application form where we gather some information. After that is approved, we're going to send you an agreement--on page 10 of the PowerPoint. We enter into a written agreement with each taxpayer. And each different tier, and according to a time period of when you apply, we'll have a different agreement. An agreement is going to include what your required level of investment in employment is; how long your attainment project is; what credits, refunds, and property tax exemptions you're going to be...that are available to you; what type of documentation you have to provide to us; and the required reporting that was in that tax incentive annual report I went over with you last month. So those are just the basics of what is in that agreement. The next step in the process, application agreement, is the Form 312N. On page 11 of the PowerPoint, we have to modify that form each time there is a statutory change. And then it's based on tiers and when you apply. So you're going to see all these different time frames. There's all those different time frames because there were statutory changes each time within those that maybe change the definition of something or added

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

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something in new. When you go to our Web site, if you're the taxpayer looking at this for the first time, you're going to know...we're going to say in your agreement, kind of give you that information, so you're going to know which of these 312Ns to go to on the Web site. The next page, this page on...this chart on page 12 is within that application. We just pulled it out and put it on here for you to take a look at. It's part of the instructions in that big 312N that we gave you. The reason I want to go through this with you, not necessarily go through this in details with you, but the 312N is an important form and has a lot of information on it the taxpayers have to fill out. Why is it important that they do that every year? If you'll see on the first couple of titles, this form needs to be filled out every year after you apply; not just after you've qualified, not just after you are using tax credits or benefits. You need to do this form every year. And as I discussed when we were talking about the annual report, we have a pretty good compliance rate with taxpayers, but we don't have a 100 percent compliance rate with them filling out this form. There's no penalty to not fill it out. Until you want to start using your...until you want to have a qualification audit and start using your tax benefits, then you have to fill it out or you won't receive them. But why is it important for taxpayers to fill this out in terms of how we're administering the program in terms of how taxpayers are administering their own program? If they have changes, the eligibility survey in their ownership or in other things that happen, they need to know how it's going to affect their project. On Schedule A and B, the employment calculation and investment calculation, as a taxpayer with a project, if you don't do this every year, how are you going to know that you've met employment thresholds and investment thresholds? It's not just something that we're making you do to make work. We're doing it so taxpayers know when they've met those thresholds. And that's really important because then when that happens, they need to let us know so we can come out and do that qualification audit. If they don't do this, they may wait several years beyond when they qualify to let us know, and they're going to be cutting it pretty close for themselves. The second reason this is important is not just because of the levels of employment and investment and they need to be monitoring because, as we talked before, sometimes the employment level goes up, maybe it goes down a little bit, is going back up and they say they're getting towards

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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

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the end, and they're saying, oh my gosh, if I only had filled this out and knew I only needed one more FTE. If only I knew that. That's why they need to do this. It's why it's important. The other thing that this is important for is the documentation that we require during the audit. They need to have a lot of information about their new employees, their base-year employees, how much they're paying them. On their investment side, we need to know...we need to have the records for their purchases; we need records that they paid sales or use tax. Now if they wait five or six years and don't do this, that means that information they haven't been accumulating it each year and getting ready for the audit, it makes it extremely hard for some taxpayers to accumulate information after four or five years have gone by. Makes it harder for us to say we can come in and do an audit, do you have the records available? So...and there's only two copies of that 312N that we distributed here, but I just wanted you to know the basics of why the form requires the information it does and why it's important for our applicants to fill out this form each year. So you filled out the 312N and you go--yeah, looks like I've met employment and investment thresholds. Let us know, let the department know, because then we'll go ahead and schedule a qualification audit with you. We're going to ask you for your 312N, because we're going to want to do some preliminary analysis to see, did you meet these thresholds? We're going to ask you for a lot of information and a lot of spreadsheets. And we can give a quick look at them before we send auditors out in the field to say--looks like you have everything you need. So that's what that preliminary analysis by the department is. We, typically, know how long it will take to do an audit if the information is available. If it's not available, our auditors go out there, get some of the information, have to come back in the office and then maybe go back out again. That creates some scheduling problems for us. So by doing some preliminary analysis, we try to ensure--doesn't always happen--that both of us are ready for this audit to happen. They need to have their proper base-year information available. They need to go through, are you an eligible taxpayer still? At this point in time with E-Verify, remember, before I said we make sure that you've registered for it and you've affirmed on that application that you are going to use it, it's when we go out to audit that we look to see, did you use it? Have you E-Verified your newly-hired employees? And I can tell

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

you, that doesn't always happen. We've had some issues with taxpayers that have not used E-Verify. Those employees aren't going to count then. But that's one of the things we do on audit, is to ensure that they are using E-Verify on a timely basis with their newly-hired employees. It's not much unlike any other type of audit. You know, we go out and we're reviewing your records, just as I said before, to ensure that you're hiring new people, that you're paying them the right wage, calculating their hours right because we, at the end of the day, have to come up with an equivalent employee count for that FTE count. And we're going to confirm that you're still doing the type of business that you told us in the application. Part of that happens during the audit. And we're going to verify investment employment. The important part for the taxpayers, we're going to calculate how much credits they have at the end of that qualification so they'll know how much they have in investment tax credit, how much they have in compensation credits, how much their direct sales tax refund will probably be for them to use. After that audit is over, we're pretty much ready to issue them that the auditing has been done, so the Form 7-I, and I'll talk about that later, it's pretty much ready to go because they've done the audit with that. And we'll issue them a qualification letter, so that means they can start using the credits. Now on page 15 of the PowerPoint, how do you start using your credits or receiving refunds: The Form 3800N, I think you each have...should each have a copy of it in front of you, this is a claim for your credits. What we need to know on here is...there's two different major categories you can see on here--nonrefundable credits and refundable credits. What we're trying to determine is, we have to track all of these credits, so which program is it? And you can see we have several under the nonrefundable. So we need to identify the program, the amount, the specific project. Some taxpayers have more than one project, so we have to track these by project. And then we do the distinguishing between the nonrefundable and the refundable. This is attached to their income tax return also. Excuse me a second, kind of flipping back and forth. For income tax credits, they're going to claim that credit on their return and they can use that to reduce their income tax liability. (Form) 3800N, we're going to confirm that they have credits and the age of their credits when that comes in. If they're claiming compensation credits, they do that...and I didn't give you the copies of the...but it's our

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

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standard withholding returns. The Form 941N is the quarterly that every employer sends in and then the W-3N is the reconciliation. There's lines on those returns for you to claim your compensation credit. The sales and use tax refund claims on the Form 7-I, that you have in front of you, is the mechanism we use for that. During your entitlement period, you can continue to make investments, you can continue to buy property that has sales tax on it, so you can continue to file those with us. There's different rules around how often and when, but you can continue to do that. When we go through and audit that refund claim, we're going to make sure that it was properly paid tax to Nebraska. We're going to ensure that you're still within the statute of limitations. We're going to look to see did you purchase this for use at the project? We look to see are you looking at a direct or a credit refund? We look at the age of your credits. Do you still have credits if you're doing a credit refund available to use? And we do error corrections whether it's been on multiple entries, wrong years; we go through and do an audit. So you don't always get everything that you asked for, depending on the information that you provide us. You have another form in front of you. It's the Form 312P and this is the form that has to be filed by May 1 of each year where you're going to claim the personal property tax exemption. The department has to ensure that you've met at least the minimum thresholds of employment and/or investment before you can qualify for the property tax exemption. Again, it has to be for property that's located at the project and it's eligible property, and you can see on the form there's certain types of eligible property out there. So, you've applied; you have an agreement; you've been keeping your records up; we've come and done the audit; you've started to use your credits. Is it the end of the Department of Revenue with you? Not all of the time. We have maintenance audits. Not everybody...we don't have the capacity and wouldn't want to do a maintenance audit on every project. So we look at it, our auditors, through their experience and we're going to pick selected ones to look at. So how do we do that? We do it through an analytical review. We read the paper; we see what business trends are happening. We might read about one of our applicants that's shut down and leaving the state. We'll probably take a look at them. We look at their withholding analysis, at their 312Ns, and the refunds that they're getting as they come in to see, do we need to go take a look at

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Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

them? And then if they're using all of their credits up, we typically will go also take a look at them. But we look to make sure that they've maintained employment. If you had to get to 30 employees, you got there, did you stay there? Because if you dip down one year, you're going to go into recapture. If you dipped down two years, it's going to be more recapture. If you go back up, then you're going to be out of the recapture. The same with investment: You have to keep the investment at that threshold that you've agreed to keep it at. If you retire assets, you need to replenish them to keep at that level. So those are the things that we're looking at when we go out and do a maintenance audit. I don't have forms...you know, there's not information, really, that we gather right now in terms of that, but I just kind of wanted you to know the entire administration of the program and how we go through it. Now the other incentive programs we'll talk about here briefly. Nebraska Rural Development Act: Again, you have an application you have to submit with this program. On this program we only have so much credit, so we're going to reserve, reserve tentative tax credits for you. Just because we've reserved them for you doesn't mean that you necessarily will receive all of them. The Rural Advantage applicants file for their refundable credits on that Form 3800N that I gave you. And we will go through and audit their investment and/or employment levels. And they also have the e-verification requirement. Now for maintenance for rural, they have to maintain that level of investment and that level of employment for three years after the credit was first allowed. So it's a little different than the general Nebraska Advantage program. And if we recapture, we're going to recapture 100 percent of their credits, or can, under rural. On the Nebraska Advantage Microenterprise Tax Credit Act, they also have to submit an application. What we're going to confirm at the time that they submit the application is they have to have less than five full-time equivalents at the time they apply. Now they can grow more after that. There was a legislative change to allow that to happen. But at the time they apply, they can't have more than five. And they need to be located in a distressed area which really isn't...most of the state anyway for the microenterprise tax credit program. Again, we're going to reserve a tentative tax credit. We only have so much money to go around. So we reserve a tentative credit. It doesn't mean that you're guaranteed the \$10,000; it

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

means it's reserved out there for you. You have a mix of things you can do to earn the credit. You can make investment. There are certain expenses that you can use to qualify. And you can either hire more people or pay your existing people more. They also are refundable. So they're going to use that 3800N to file for and claim their refundable credits. We're going to do, when they do that, we're going to look at doing an audit of their investment and expense and employment levels. And with microenterprise, too, we're going to look to see that they used E-Verify. There's no maintenance requirements with microenterprise like there are in the other programs on maintaining any type of investment thresholds or employment thresholds. And because of that then, if there's no maintenance, there's no recapture of credits in the microenterprise. On the Nebraska Research and Development Act, it's different than all of the other programs in that there's no application. You claim...it's a refundable tax credit. You claim it on that 3800N, and we have a Worksheet RD that they use to claim that. We're going to validate their expenditures, which is typically a percentage of the federal tax credit. And they also are subject to the E-Verify requirement. There's no maintenance requirements on that and no recapture of credits on the Nebraska Research and Development Act. That's the end of my presentation on a run-through of the administration of the programs, the forms and information that we are accumulating right now to give you an idea of mechanisms that could be used if you decide on goals or metrics, or if more information is needed from taxpayers. And I will certainly answer any questions.

[LR444]

SENATOR HARMS: Kim, thank you for your testimony. Do we have any questions for Kim? Senator Schumacher. [LR444]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. Just a few questions here to clarify my understanding of this. One in the beginning, is there any records or any data input that indicates what is spent by the various tier applicants on the application process, all these review processes, all these audit process, so that we have a cost to the applicant of complying with this...what appears to be extraordinarily involved

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

system? [LR444]

KIM CONROY: No, Senator. [LR444]

SENATOR SCHUMACHER: Is there any...would that be within the department's discretion or rule-making authority, whatever, to ask the applicant's for an estimate of the cost of compliance on an application? [LR444]

KIM CONROY: I do not believe so, and I don't know if another requirement for them to then accumulate their cost would be something that they would want to do. But I don't have it. It's nothing that I can require them to do. And I don't see that it would be anything that we could do through... [LR444]

SENATOR SCHUMACHER: Maybe they'd like us to know how much it costs them. [LR444]

KIM CONROY: I think I'm probably not the right party to be asking them the cost of their administration costs. [LR444]

SENATOR SCHUMACHER: Okay. Okay. Okay, I mean just... [LR444]

KIM CONROY: I can tell... [LR444]

SENATOR SCHUMACHER: ...go ahead. [LR444]

KIM CONROY: Before I was at the Department of Revenue, I worked at a rather large corporation, at Union Pacific, and was involved in tax incentives a lot. [LR444]

SENATOR SCHUMACHER: Right. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KIM CONROY: I can tell you, it is very time consuming even for a Fortune 100 company. You have to devote staff and time to doing this. But one thing I can say is, if you are devoting staff and you're a good taxpayer right now, you're paying your use tax when you need to do, you're keeping all the documentation you would need to do in case we came in and did a sales and use tax audit or an income tax audit, it just is a different level of information that you have to keep. It is difficult, because we have to...we're bound to...our duty is to not pay you more than what the act says you deserve. So we have to know, when we go in and look at investment, that you paid sales tax on these pieces of equipment. So they have to have that information available for us. Is it a burden? Yes, but that's why up-front we want them to know that it is; here's all this information that you're going to have to provide to us. As to how much it costs each company, I do not know. But I know that it is an administrative burden and maybe too big of a hurdle for some companies. But there are people that are certainly well qualified and capable that can be hired to help them through the process. [LR444]

SENATOR SCHUMACHER: Well, it...and that's kind of one feel I'm trying to get. I mean, UP is a big, big, big operation. It's in position and has the mechanisms in place to hire very qualified people like you to do what a big, big operation does, including comply with a bunch of regulations, reports, and stuff like this. But do you get any sense of, for smaller-type operations, this is really just too much? [LR444]

KIM CONROY: I don't directly get that sense, because I think the companies that don't have the staff to do it are hiring people to help them. These are still good benefits for them. And that's something that they have to weigh on the cost of hiring additional help versus not applying for the program. I think they generally tend to say--it's a pretty good benefit to be able to earn tax credits to reduce or eliminate my income tax liability or to not have to get a refund of that sales and use tax that I paid. [LR444]

SENATOR SCHUMACHER: Do you have a sense of when they hire the lawyers and accountants necessary to comply with this that those firms are Nebraska professional

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

firms rather than out-of-state firms? Any indication? [LR444]

KIM CONROY: Generally, they're Nebraskans. [LR444]

SENATOR SCHUMACHER: Is there limits on the amount of this investment money that comes in? Say you start a business, you put 50,000 grand in it, and it's a real good business, it makes 50,000 grand, and you reinvest that. Can you...the investment be from revenue produced or does it have to be equity investment from the outside? [LR444]

KIM CONROY: I don't understand your question. [LR444]

SENATOR SCHUMACHER: Okay. [LR444]

KIM CONROY: We don't look to see where your cash is coming from as you purchase and make investments. [LR444]

SENATOR SCHUMACHER: Okay. So if you reinvest the profits, it counts toward this investment revenue? [LR444]

KIM CONROY: We don't look at whether you're using profits or whether you're going out and getting a loan. All we care is you purchased a piece of equipment. I don't care how you paid for it. [LR444]

SENATOR SCHUMACHER: Okay. And then finally, when these forms talk in terms of the average Nebraska wage for multiplications times that,... [LR444]

KIM CONROY: Uh-huh. [LR444]

SENATOR SCHUMACHER: ...does...it's just the average that's looked at? It's not the

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

mode wage or the median wage or anything like that? So if I started a business and it was making about \$650,000 a year and I paid myself \$500,000, and then I hired nine \$8-an-hour employees, I paid them the other \$150,000 and, therefore, my average wage would be \$65,000 a year, that works? [LR444]

KIM CONROY: We have a...there is a \$1 million limitation on the salary. And in your example, if it wasn't a new business, if the owner was acting as an employee prior to that, they'd be considered a base-year employee, so I wouldn't be including them as a new hire over here on the other side. [LR444]

SENATOR SCHUMACHER: What if I just started a new corporation (inaudible)? [LR444]

KIM CONROY: If you start a...and you're acting as an employee, yeah, we'd be including...um-hum. [LR444]

SENATOR SCHUMACHER: It works. So really what we may be seeing in some of this, on this average wage, is a lot of very low-wage people that are employed and then a few or small group of very high-wage people. And when you do the averaging, you come up with a very high-average wage. [LR444]

KIM CONROY: You mean an average wage by each project or do you mean the statewide average, wages by county that we're looking at? [LR444]

SENATOR SCHUMACHER: Well, I mean, right, but we...if I meet a certain level...at least if I'm reading your chart right, of the wage...the average wage that I pay is so much more than the average Nebraska wage, then I get the benefit. [LR444]

KIM CONROY: Okay. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: I meet my...I can check off that on my list. So if you have a couple of people making a boatload and the rest of the people making minimum wage, you can still get a pretty high average wage. Does that work? [LR444]

KIM CONROY: Well, Senator, they still have to meet those minimum wage thresholds and minimum wage won't cut it. They still have to meet a certain level of wage. And from what I've seen, I don't think that that's happening. I don't think we see that there's a lot of top-heavy companies that are qualifying, because either they don't have enough employees, or if they're paying the minimum wage, they don't count. I mean, our most recent revenue ruling on wages...and I don't have... [LR444]

\_\_\_\_\_ : It's done by each employee. [LR444]

KIM CONROY: Right. I mean,...and thank you...I mean we look at each employee to make sure that they're making that wage level. To get a compensation credit of...you're saying 6 percent? They have to have, in 2014, \$49,085 that they're being paid. So that's not a minimum wage employee. [LR444]

SENATOR SCHUMACHER: And so every...for that employee to count... [LR444]

KIM CONROY: Uh-huh. [LR444]

SENATOR SCHUMACHER: ...at that level, that person has to be getting the \$49,000? [LR444]

SENATOR MELLO: That's at 6 percent though. What's the 3 percent? [LR444]

KIM CONROY: That's at the 6 percent. The 3 percent for 2014 is \$23,561. [LR444]

SENATOR SCHUMACHER: Okay. Thank you. That helps me understand. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KIM CONROY: Okay. [LR444]

SENATOR HARMS: Thank you, Senator Schumacher. Do we have any other questions? Senator Davis. [LR444]

SENATOR DAVIS: Just a couple of questions. When you do these, how often are these entities audited? [LR444]

KIM CONROY: Senator, do you mean...for the...the ones that are in the...that have an application with us? [LR444]

SENATOR DAVIS: That have an application or have been approved. [LR444]

KIM CONROY: Right. For the incentives, they'll be...they have to have a qualification audit. They may or may not have a maintenance audit. That is not to say that my other side of the compliance might not be out there doing a normal sales and use tax audit on them at some time too. [LR444]

SENATOR DAVIS: But once the application is completed, you're through with it, from your perspective. Is that what you're saying? [LR444]

KIM CONROY: No. No. [LR444]

SENATOR DAVIS: Okay, I guess I'm not following you then. [LR444]

KIM CONROY: Well, they go through the application, the agreement, the 312N, have they met levels? Then they'll ask us to come out and do that qualification audit. Are we out there just once? Maybe not. I mean, I consider a one audit until we get done with it. I don't under...I guess I'm not... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DAVIS: If it's a multiyear project which might go on for ten years. [LR444]

KIM CONROY: Uh-huh. [LR444]

SENATOR DAVIS: Do you do a qualification audit at the beginning and that is approved. [LR444]

KIM CONROY: It's maybe not at the beginning, it's once they said they have met their levels of investment and employment. [LR444]

SENATOR DAVIS: Okay, so then after that how often do you go back to make sure they're still maintaining those levels? [LR444]

KIM CONROY: It depends. [LR444]

SENATOR DAVIS: Any idea? I mean every year or every... [LR444]

KIM CONROY: No. No. No. No. We don't go back out there every year with all of the incentive applicants that we have. [LR444]

SENATOR DAVIS: How often do you go back? [LR444]

KIM CONROY: Again, on that slide when I talked about maintenance audits, it's an audit selection, tools that we use to determine who to go out and audit. If everything is looking good coming in on those 312Ns and 3800Ns and we're not seeing news in the paper that they're laying off employees or thinking of leaving the state. They might not get another audit from us. So they might just have the one qualification audit. But keep in mind that we do review the forms when they come in every year. I don't think you'd probably count that as an audit. We count that though as a review, an audit step, when

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

they do come in. [LR444]

SENATOR DAVIS: And how many people on staff are involved in credits? [LR444]

KIM CONROY: Okay, I think I might have some information there for that. I think we have 13...we have 13 employees whose full-time job is to work on these credits in the tax incentive group. I really could call that 16 because we have 3...not the same 3 auditors, but we have the equivalent FTE of 3 auditors that work on the qualification audits throughout the year. So that...probably you could say that there's 16 employees dedicated to working on the tax incentives. That's not it though. I probably have the equivalent of at least one attorney in policy, one attorney in legal, and then the time that the director spent. We have people over in my property assessment division that also have to work on these for that 312P. We have taxpayer assistance, revenue operations. So it's a dedicated, probably, 16; if I do FTE, probably at least 20 people in the department. [LR444]

SENATOR DAVIS: Okay. And part of that...we'll say part of those costs are offset by the fees they pay when they apply? [LR444]

KIM CONROY: Very little bit of it is. Several years ago...for these employees that we know are working in this full time, we know what their salaries, wages, and benefits are. Several years ago, even though we were using the entire cash fund every year, we started on our time sheets to record for everybody in the department, if you're working on a tax incentive issue. But before that, and I don't know if you remembered, Senator Mello, each of these different tax incentives had their own cash fund. We collapsed them into the one fund, which was helpful to us, because then once that was done, employees, if they're working on 775 or 312 or micro, each time they...each...every two weeks when they do their time records, they're going to say--I spent four hours on tax incentives. So we started to accumulate that information several years ago just to show that. I think we had for 2013, the Incentive Cash Fund had \$136,000, roughly, in it.

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

And...but we...the General Fund was about \$1.1 million expense to the General Fund. Because it just didn't...it...just that cash fund of \$136,000 doesn't go very far on administering the program. [LR444]

SENATOR DAVIS: So are you saying then it's about \$1,100,000 to do the...in staff costs? [LR444]

KIM CONROY: In total it's about \$1.2 million. The Cash Fund provides about \$136,000 General Fund expenses. [LR444]

SENATOR DAVIS: So a little over a million dollars is our cost. [LR444]

KIM CONROY: \$1.1 million, um-hum. [LR444]

SENATOR DAVIS: Per every year. [LR444]

KIM CONROY: For 2013 it was. [LR444]

SENATOR DAVIS: From the General Fund. [LR444]

KIM CONROY: Yep, yep. [LR444]

SENATOR DAVIS: Yes. Okay, thank you. [LR444]

KIM CONROY: Um-hum. [LR444]

SENATOR HARMS: Thank you, Senator Davis. Senator Mello. [LR444]

SENATOR MELLO: Thank you, Chairman Harms. And I'll try to...I've always got questions, Commissioner, as you know on a variety of issues, but we'll keep them to

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

this today. The confidentiality issue you raised, I know that's been an issue the state has wrestled with since we created LB775. And I know in the tax incentive report you do every other year, and the annual report you give a listing of what other tax incentive programs other states have. Do you do any kind of investigation of what other states do in respects to the confidentiality issues, so to speak, of what information is public, what information is not public as the departments of revenue or commerce or economic development are administering these program around the country? [LR444]

KIM CONROY: Senator, I...and I've always had an interest in that area, I mean not even when I've been at the department, but when I was working in the private sector was, in the private sector, the tax information is really considered confidential to companies. And so I would follow it around the country. (LB)775 kept most of it confidential, the program there. But I did follow it at that point in time. And I...we still do follow it. I mean we see what other states are doing. We haven't seen a...we've seen some movement towards there being more disclosure, but not in any huge way. I think Nebraska still, by doing their company-specific disclosure, is probably...you know, there's probably under ten or maybe five to ten states that have maybe a similar type of program that are actually even disclosing who is in the program, let alone how much they may have received in tax credits. So I know there's been discussions about it. But I just haven't seen that there's been a large movement to disclosing more information. I think companies, rightfully so, when they deal with us outside of this, expect that we maintain their confidentiality. Because a lot of the information they have on their returns can lead competitors to know what were their gross receipts. And if I know what your income tax liability is, I might have a pretty good idea of how you're doing. So it's a balancing act of...between... [LR444]

SENATOR MELLO: Those are for nonpublicly-traded companies you're referring to, because publicly-traded companies, obviously, that information is all publicly available. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KIM CONROY: Right. Right. Right. But not all of our companies that apply for these are publicly held. [LR444]

SENATOR MELLO: Public traded, yeah. [LR444]

KIM CONROY: Uh-huh. [LR444]

SENATOR MELLO: Um-hum. I guess that kind of just...I guess that just leads to the question of where does...in respects of what we're looking at here of trying to evaluate tax credit programs, tax incentives, knowing that you are the keeper of the information, in theory, how do we go about...? If the confidentiality issue, and you raised it, just by looking at some of these forms, there is some information here that we would never get our hands on, so to speak, or Performance Audit staff would be limited, let's say, in their ability to get all the information we want. Where do you recommend we start to look at in regards to the confidentiality issue, if you feel so compelled to give a perspective on that? Because if we need the information, but it's all confidential right now, how do we really understand...how can we really dig deeper to find out whether or not the program is doing exactly what we intend it to do, it's meeting the benchmarks in metrics that we want it to meet and statutorily? How do we get there then? [LR444]

KIM CONROY: You can combine information. I mean, if you're going to...if you're looking at it just on a project by project by project basis, yes, I mean there's no way to mask that if a company has a project. But if you take the information and then you accumulate it either by tier, by industry group... [LR444]

SENATOR MELLO: Like nonidentify...like nonidentifying... [LR444]

KIM CONROY: ...so that it...so that it is nonidentifiable. [LR444]

SENATOR MELLO: ...to a company and entity? [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KIM CONROY: Yeah. Do you have at least three companies in that category? Or ten might even be a better measure, but you have to decide what types of "buckets" that you're setting up to put that information in. Then you don't run the...your risk, or at least an individual company's hesitation about that becoming public, when it's thrown in with... [LR444]

SENATOR MELLO: Okay. [LR444]

KIM CONROY: ...others, to some extent minimizes. [LR444]

SENATOR MELLO: Okay. Okay. The maintenance audits, where can...do you see any opportunities that lie in regards to what the department does through the maintenance audit process in regards to helping us be able to incorporate that information into the evaluation process that we're looking to create, knowing that the maintenance audit really is collecting that information in regards to whether or not they're doing what they say they were going to do and giving a more, I would say, a more detailed perspective, so to speak, in regards to an entity...a taxpaying entity meeting its tiered level so to speak? [LR444]

KIM CONROY: Well, the maintenance audit, in and of itself, won't because not every company does it. But what does do it is that Form 312N the companies are filling out. Because they're going to...if they're...when they're doing that and receiving benefits, they're going to self-report to us, too, that they are in recapture. I mean, we're going to see on that form that they...they're reporting that their employment or investment levels have gone under. So it's really...the mechanism would be on that form, not really on an audit, per se. And on that...if you're doing it, then you're only looking at companies that have actually qualified. A lot of the information in the annual report accumulates it for companies that will never qualify. And we talked about that at last month's hearing, how we probably are at about 50 percent of companies that apply, for some reason or the

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

other, aren't going to end up qualifying under the act. If you look at it for just qualifying companies, you take out...if you take out that information on the companies that didn't qualify, that might be one place to look at. I don't know. [LR444]

SENATOR MELLO: But you don't think the maintenance audits would assist us because you don't do a maintenance audit on every entity? [LR444]

KIM CONROY: Correct. [LR444]

SENATOR MELLO: Is it more of a random selection of how you pick...of how you go about doing maintenance audits then? [LR444]

KIM CONROY: It's not random. I mean we're using data and using certain criteria and analytics to determine who to do a maintenance audit on. [LR444]

SENATOR MELLO: But those maintenance audits are on entities, though, that have qualified... [LR444]

KIM CONROY: Yes. [LR444]

SENATOR MELLO: ...and are in the ability to recapture credits, in theory? [LR444]

KIM CONROY: Yes. Yes. [LR444]

SENATOR MELLO: Okay. [LR444]

KIM CONROY: Yes, they have qualified and they have been earning credits and using credits. [LR444]

SENATOR MELLO: A question or a statement you kind of posed earlier and I wrote

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

down to ask you this, is what can be done to have taxpayers fill out the 312N Form on an annual basis? Because if they're not required to statutorily now, but we know they're going to have to at some...I mean, that's more of an administrative...I understand it's more of an administrative question in nature to you and to the department in general. But what can we do to...can we...should we make them do it as part of the application of saying it makes your life easier administratively? It ultimately will help them get the credits when the time comes instead of having to dig through four years of information to be able to fill out then the 312 Form when they think they qualify. I mean, in theory it should help them make better business decisions too. [LR444]

KIM CONROY: Right. I just don't know what mechanism you would use. I mean, I can't say that you want to do something punitive to them, but I don't know if...if they knew what the purposes were at least for making them do it, I mean, what you're using that information for, for the good of the whole program. I don't know what...I mean, I haven't really thought about the mechanism or how you make somebody file something, especially if they don't know they're going to ever qualify or not. I don't know what that...I don't know what a penalty...I don't know. We would have to think about that. But I...yeah. [LR444]

SENATOR MELLO: I do not think it's so much penaltywise, but if...you just stated that this committee should be looking at that 312N Form in regards to be able to get information and be able to evaluate the effectiveness of the tax incentive program, or at least Nebraska Advantage. But if not every entity is filling out an annual 312 Form and/or...I'm just wondering if there's a way to be able to make this work where we're able to get that information from the 312 Form knowing what we are considering in an evaluation period. But it just seems like it's a...maybe I'm not understanding it of why we wouldn't just want to make them do it every year. [LR444]

KIM CONROY: Right. And let me clarify. If they have qualified, they are filling this out every year. [LR444]

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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR MELLO: Okay. [LR444]

KIM CONROY: Because they won't... [LR444]

SENATOR MELLO: Get their credits otherwise. [LR444]

KIM CONROY: ...they won't get their credits. So that group, those companies that have qualified, are...typically they're fine because they have to have this with us. And their penalty, they do have a penalty and the penalty is they're not going to be able to use the tax credit on their income tax return until they have that filed with us. So that's the penalty. We, as the Department of Revenue, typically our penalties for filing your income tax return late is that there is a specific penalty attached to it. So that's the realm I'm kind of used to working in. I'm not saying that that would be something that would be good or positive to do on the incentive programs. But if you're looking...if you want metrics on everybody, then we need to kind of guide it towards the ones that haven't qualified yet then. [LR444]

SENATOR MELLO: The one issue, though, and probably the question that we ask ourselves every hearing I've ever been in is whether or not a business is doing this because they need the incentive or were they going to create the jobs anyway and we're simply giving them an incentive, because they're doing something they would have already done naturally through the economy? And if the 312N Form...entities aren't filling that out for whatever reason. And they may not fill it out because they may not qualify. Somewhere along the lines that information is fairly valuable, fairly valuable to us, I think, in the policymaking realm in regards to why isn't a company filling that out. Is it because they're creating...they're putting this investment in and they're creating a certain number of jobs because, naturally, that's what they would do anyway in the economy, in the cycle that we're in? Or is it because they just, you know, they just needed to fill out the form at a later date, they just haven't got to it; they'll fill it out when

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

they think they qualify for the credits? I mean, that question that we ask ourselves at every hearing you've been at, every hearing we've been at in this committee, as well as the Revenue Committee and other committees is that "but for" question. And if the 312N Form feels to me like that's where you're pushing us to consider this as that may be the "but for," which is entities aren't filling this out annually. They're only filling it out if they think they qualify. But yet you have a number of entities who have applied for this program. That could help us, in theory, evaluate whether or not it's being effective or it's not as effective the way the program is currently set up. If you think...if I'm going off kind of in a path where you think I may be incorrect, I'm more than...more than willing to let you share your thoughts. [LR444]

KIM CONROY: Well, and I don't want to lead you. I don't have the exact number, but I think we only had...is it 29 percent that didn't... [LR444]

\_\_\_\_\_ : Eight-two compliance. [LR444]

KIM CONROY: I mean, we have a lot of compliance, so it's not that they're not. It's just I don't have the whole universe. I mean I think most of them are complying. There's ones that aren't. But I'm still struggling with how that's going to determine some type of "but for" test, whether they filled a form out or not. [LR444]

SENATOR MELLO: Maybe it's because it's the only form that, in theory, they have to give some kind of annual update, so to speak, to the state after they've applied for the credit and they've been given some... [LR444]

KIM CONROY: Yeah. [LR444]

SENATOR MELLO: ...the issued qualification letter... [LR444]

KIM CONROY: And how I wanted you to see that form is the type of information we're

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

gathering, how we gather it, know that at this point in time if you haven't qualified. A lot of them fill it out for the reasons I said earlier, but not all of them do. The ones that have qualified, have to fill it out. So if you were looking at additional information, I just wanted you to be aware of one form that we have now that does accumulate and track a lot of information in it for purposes of this report too. [LR444]

SENATOR MELLO: Uh-huh. Okay. One, and this is just more of an information, the 3 percent, the 3 percent wage credit if 60 percent of the Nebraska average was, you said was 23, I'm just trying to get this number down from yours, \$23,000... [LR444]

KIM CONROY: \$23,561 for 2014. [LR444]

SENATOR MELLO: Is there an annual...is there an hourly wage associated with that number? [LR444]

KIM CONROY: Divide by 2080. (Laugh) [LR444]

SENATOR MELLO: Okay. [LR444]

KIM CONROY: By 2,080, just divide it,... [LR444]

SENATOR MELLO: Okay. [LR444]

KIM CONROY: ...and then you'll come up with what the hourly is on it. [LR444]

SENATOR MELLO: All right, thank you. [LR444]

KIM CONROY: Uh-huh. [LR444]

SENATOR HARMS: Thank you, Senator Mello. Do we have any other questions?

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Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

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[LR444]

SENATOR DUBAS: Senator Harms. [LR444]

SENATOR HARMS: Senator Dubas. [LR444]

SENATOR DUBAS: Thank you, Senator Harms. Thank you. And you may have answered this question so I apologize if I'm asking one...repeating a question. But how long does an application stay active without qualifying for the program? [LR444]

KIM CONROY: Senator, it depends on the tier. You know, once they apply...if you have this here in front of you, if you want to open it up. And let's just take a look a Tier 2. [LR444]

SENATOR DUBAS: Oh, I see it. [LR444]

KIM CONROY: You see it down there? [LR444]

SENATOR DUBAS: Thank you. [LR444]

KIM CONROY: Okay. [LR444]

SENATOR DUBAS: So after that, if they don't...on any of these, if they don't qualify within that time, they either have to reapply or their application is just... [LR444]

KIM CONROY: They have a couple options. I mean, they can always withdraw that application and reapply. You know, if things just weren't going like they did, they can withdraw it and then reapply at a later point in time. [LR444]

SENATOR DUBAS: Okay. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KIM CONROY: Yeah. But they only have a certain period of time to attain the levels.  
[LR444]

SENATOR DUBAS: Thank you. [LR444]

KIM CONROY: Um-hum. [LR444]

SENATOR HARMS: Thank you, Senator Dubas. Do we have any other questions? Kim, I have a couple I would like to ask, if I may. Looking at Nebraska Advantage Rural, Level 1 and Level 2. Do you have how many people have used this program in Level 1 or Level 2 in rural Nebraska? [LR444]

KIM CONROY: Senator, for just one year or for the life of the program? [LR444]

SENATOR HARMS: I'd like to have it broken down, you know, since we've had it annually and see how many, and then what the total is. Do you have that? [LR444]

KIM CONROY: I don't have it here with me. I mean, we had some numbers in the annual report. But if you let me know, I mean, we can...for what years you're looking at, we can go back and take a look at that information and provide that to you. [LR444]

SENATOR HARMS: Okay. I'm also interested in looking at whether you have a map that shows where these are being used. I mean what I'm really driving at, I just don't know whether how many people in rural Nebraska understand this might be available. And that's really what I'm after, just to kind of get a picture. So if...it may be something as my colleagues look into the future, they may want to approach this a little bit differently that might make it easier and better for people who sit in rural Nebraska. I'm just thinking of some of these smaller communities where they don't have someone who takes care of economic development and those sort of things. And so that's why I'm

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

really asking the question. [LR444]

KIM CONROY: We can take a look both by location... [LR444]

SENATOR HARMS: Okay. [LR444]

KIM CONROY: ...and then...for how many years did you want to look at? [LR444]

SENATOR HARMS: Well, since the time it started. [LR444]

KIM CONROY: Since it started? [LR444]

SENATOR HARMS: Uh-huh. [LR444]

KIM CONROY: As Rural Advantage, okay. [LR444]

SENATOR HARMS: Yeah, just kind of like to look to see just what has happened to that and whether or not it's something that we should start to look at as policymakers of the future, so. [LR444]

KIM CONROY: And you want it broken down by the type of Rural Advantage. [LR444]

SENATOR HARMS: Right, if you could for me. [LR444]

KIM CONROY: Okay. Uh-huh. [LR444]

SENATOR HARMS: I don't mean to put you in a lot more work, but I think it would be helpful, at least for me and other of those other colleagues of mine who live in rural Nebraska, to have a better understanding about this. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KIM CONROY: And it's not limited to rural areas. [LR444]

SENATOR HARMS: I understand that. [LR444]

KIM CONROY: Okay. [LR444]

SENATOR HARMS: Um-hum. I also would like to just say in closing that until we did our first review in Performance Audit, I really didn't have a really good understanding or the big picture of all incentive programs we have available. And with your testimony that you gave when we started LR444, which was in greater depth, and of course today's testimony, about just how complex this really is and there are so many moving parts in this. I think it's why so many people probably struggle in understanding it. And your knowledge, you've been very helpful today, of trying to get our minds wrapped around some of the questions we have. I want to thank you for that because I don't believe this is an easy program to administer and, like I said, you have a lot of moving parts. I thank you for being open and honest and direct with us. I appreciate that very much. [LR444]

KIM CONROY: Thank you very much, Senator, but everything I do is always dependent upon the good staff that I have and there are several of them back here sitting behind me; that I really have to thank Mary Hugo, who is our incentive manager, back here; Glen White, our director of compliance; Laura Maurstad is one of our policy attorneys that works in this area; and then Garner Girthoffer, our legislative liaison, beyond those other 20-some people that I talked about. But they're the experts in this. [LR444]

SENATOR HARMS: I have a good understanding of that because of my previous world that I came from. I learned very quickly you're only as good as the people you surround yourself with. So if you get a lot of bad information, you're going to go nowhere. So thank you very much and thank you for choosing the right people. Any final questions for Kim? Thank you for your testimony. [LR444]

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Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KIM CONROY: Thank you. [LR444]

SENATOR HARMS: Okay. [LR444]

KIM CONROY: Can you wait just a second. [LR444]

SENATOR HARMS: Sure. [LR444]

KIM CONROY: One of my experts. [LR444]

SENATOR HARMS: All right, we're in no hurry. [LR444]

KIM CONROY: Okay. And I can clarify on a question that you had, and I was...there's two different things that work. [LR444]

SENATOR HARMS: Could we identify, that's Senator Schumacher. [LR444]

KIM CONROY: Senator Schumacher. [LR444]

SENATOR HARMS: Okay, so we know where we're going here. Thank you. [LR444]

KIM CONROY: That wage level, each individual employee has to meet, that minimum, but then when... [LR444]

SENATOR SCHUMACHER: So everybody has got to be paid \$11.33 an hour. [LR444]

KIM CONROY: Everybody has to be paid at least...yeah. [LR444]

SENATOR SCHUMACHER: ...in the 3 percent. [LR444]

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Transcriber's Office  
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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

KIM CONROY: But then when we go to do the calculation or the comp credit is an average, averaging together then. Correct, Glen? [LR444]

GLEN WHITE: Yeah. [LR444]

KIM CONROY: Yep. Yep. [LR444]

SENATOR SCHUMACHER: So as long as I pay those nine people, in my example, at... [LR444]

KIM CONROY: At that minimum. [LR444]

SENATOR SCHUMACHER: ...at \$11.33 an hour, and I'm making the \$500,000 a year, it works. Okay. [LR444]

KIM CONROY: Yes. [LR444]

SENATOR DAVIS: Can I ask just one other question along that line? [LR444]

SENATOR HARMS: Senator Davis. [LR444]

SENATOR DAVIS: Sorry, sir. Didn't want her to get away. [LR444]

SENATOR HARMS: So we make sure it's a little easier when we record this. [LR444]

SENATOR DAVIS: This has to be a cash wage. Are any benefits attributable to that \$11.33 an hour? [LR444]

KIM CONROY: Senator, there's no benefit requirement in the acts. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DAVIS: So it requires a salary of \$11.33. [LR444]

KIM CONROY: Yes. Yes. [LR444]

SENATOR DAVIS: Because in a lot of rural Nebraska, a lot of salary is paid in benefits--housing, those kind of things. [LR444]

KIM CONROY: And I...the microenterprise credit operates a little differently, I believe, in regard to the benefits, not that they're required but that they can be included. But the general Nebraska Advantage Program just looks at compensation and Rural does too. [LR444]

SENATOR DAVIS: Okay, thank you. [LR444]

SENATOR HARMS: Thank you, Senator Davis. Do we have any other questions? I'm sure Kim is wanting to...any others? Kim, thank you for your testimony. [LR444]

KIM CONROY: Thank you. [LR444]

SENATOR HARMS: Now we'll move to Dacia Kruse from Department of Economic Development. Dacia, would you please come forward. Dacia, thank you for coming. [LR444]

DACIA KRUSE: (Exhibit 8) Yes. Good morning. Good Morning, Chairman Harms, members of the committee. For the record, my name is Dacia Kruse, D-a-c-i-a K-r-u-s-e. I am the acting director of the Nebraska Department of Economic Development. I appear before you today to provide information regarding the Angel Investment Tax Credit Program, but I would also like to take this opportunity to briefly provide you my comments about the need for and the benefits of our state's business incentive programs. On a daily basis, my agency interacts with individuals who have

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

new ideas they want to bring to market, executives locating or relocating their operations, and business leaders expanding their physical space or product lines. The department works hard to showcase Nebraska as the right place to pursue their business goals. And the tax incentives that are suitable to each business situation are one of the key features. Before I go further, I want to point out that the economic development industry is a highly competitive industry. Decision makers have access to more information faster than ever before. Sites are eliminated before they even...before even knowing they were under consideration. Most technology companies can be anywhere. Many manufacturers could be successful in multiple locations. And very rarely is there just one site in the world where a business has to be in order to turn a profit. Every day, every hour we compete with...against 49 other states and countries all over the world for the finite number of high-paying jobs, as well as large capital-intensive projects that may be available. We go after and aggressively pursue many of these opportunities. However, we don't try to get them all. Some don't make sense for Nebraska. We appreciate the resources that have been entrusted to us and are strategic about what we do. We play to Nebraska strengths. We work with existing businesses to try and identify companies in their supply chain who may benefit to have them closer. We target companies who could benefit from our central location, being able to access major U.S. markets and overseas markets via our excellent rail, trucking, and air services; our low utility rates; and state-of-the-art telecommunication facilities. And other projects come to us through our local partners, through national site selectors, or the business itself. I think among some constituencies there may be a perception that we focus all of our efforts attracting businesses from out of state to relocate to Nebraska. Nothing could be farther from the truth. We devote the majority of our time on retention and expansion of existing Nebraska businesses. A company that adds a project line or buys new equipment or signs a new contract requiring additional production of an existing product or service is economic development. In fact, we estimate that at least 70 percent of our business development efforts are focused on existing companies who are expanding. I want to reiterate that point--the businesses that are already in Nebraska matter and many of them qualify for the same incentives

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

that one locating from out of state would. We attempt to tailor the package of incentives that we offer based on what is in the best interest of the state, fits within the parameters of the program, and meets the needs of the business. Incentive programs are meant to encourage investment and/or job creation in Nebraska, collaboration between business and education, and retain talent in the state. Nebraska Advantage is perhaps our most well-known incentive program with a list of successful projects in its wake. And Kim just talked in detail about that. As you well know, it offers a tiered approach that provides tax credits to qualified businesses based upon the amount of investment and jobs created. Additionally, rural areas have their own level of incentives, as do microenterprises. Enacted about ten years ago, it is also the oldest active program. Ensuring we have a program that meets the state's needs for the next ten years is important. And as you know, we have several other programs designed to assist businesses at various stages of development, including the Job Training Program, the Site and Building Development Fund, Intern Nebraska, programs associated with the Business Innovation Act, and the Angel Investment Tax Credit Program that I'll go into in more detail in a minute. I probably have some recruiters who would be quick to point out to you that what is not on the list is a closing fund or an open checkbook to write checks to companies. We compete against states who have such funds. And from a business's perspective, it is much easier to cash a check than it is to cash in credits. However, Nebraska's incentives are performance based. And quite frankly, they should be. Companies should have to be accountable for meeting specific requirements if they want to receive a monetary benefit from the state. We see all of these programs working together to provide a comprehensive package for business attraction and growth and help ensure that economic development projects are undertaken in Nebraska. With all of this in mind, I will now turn my focus to...I'll now turn the focus to...of my testimony, the reason I'm here, which is the Angel Investment Tax Credit Program. It is an important tool for helping to grow businesses here in Nebraska. The Angel Tax Credit Program provides a refundable state income tax credit to qualified investors that invest in qualified early-stage companies. This is essentially a program that assists in providing small start-up businesses with a source of capital by giving an incentive to investors to make

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

investments in these early-stage companies. Investing in early-stage companies can carry a significant amount of risk, and offering a refundable tax credit is one way to mitigate the risk and encourage investors to make investments in these companies. Some of the key elements of the program include the following: Businesses must become certified as a qualified small business, and investors must become certified as qualified investors or qualified funds. Qualified investors must make a minimum investment of \$25,000, and qualified funds must make a minimum investment of \$50,000. The maximum tax credit for couples filing a joint return is \$350,000, and the maximum tax credit for single filers is \$300,000. Only Nebraska residents, estates, and trusts may claim the tax credit on a Nebraska state income tax return. The maximum amount of tax credits allocated for investments in any one qualified small business is limited to \$1 million. The Angel Investment Tax Credit offers a 40 percent refundable tax credit for investments in qualified small businesses in distressed areas, and 35 percent refundable tax credit for investments in nondistressed areas. And the department has \$3 million available in total credits per year. I will now walk you through the general process involved in administering the Angel Program. First, the department certifies early-stage companies that meet the statutory criteria as qualified small businesses. The criteria for becoming certified as a qualified small business includes the following: The business must be headquartered in Nebraska; more than 51 percent of employees must be in Nebraska; more than 51 percent of the total payroll must be in Nebraska; and the business must be engaged in innovation in Nebraska as a primary business activity; and the business must have 25 or fewer employees at the time of the investment. Innovation refers to using proprietary technology to add value to a product, process, or service in a high-technology field; or researching, developing, or producing a proprietary product, process, or service in a qualified high-technology field. And "qualified high-technology" is defined in the statute, as I provided to you. The process for businesses becoming certified begins with a business submitting an application for certification as a qualified small business. The department reviews the application received for completeness, eligibility, and compliance, and makes a determination to certify or to deny certification within 30 calendar days after receipt of an application. If

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

additional information is required to make a determination, the department contacts the business and informs them of the deficiencies found. Businesses are then allowed to correct deficiencies and have their application re-reviewed. If additional information is required in order to make a final determination on a certification, the department will, within 30 calendar days of receiving an application, contact the business and identify and request such required additional information. The department will then make its final determination to certify or deny certification within 30 calendar days of the department's receipt of all requested additional information from the business. Businesses are certified throughout the year. The department also certifies investors as qualified investors or qualified funds. And in order to be certified as a qualified investor or qualified fund, they cannot control 50 percent or more of the qualified small business, as well as meet several other criteria. The process for investor or fund certification begins with submission of an application for certification as a qualified investor or a qualified fund. The department reviews the application received for completeness, eligibility, and compliance, and makes a determination to certify or to deny certification within 30 calendar days after receipt of the application. The applications for certification of investors in funds are treated the same way as they are for businesses, and that is if additional information is required, the department will make its...will allow businesses to correct their application and the department will make its final determination to certify or deny certification within 30 calendar days of the department's receipt of all requested additional information. Following certification, the department considers applications for allocation of tax credits from qualified investors and qualified funds for a proposed investment in a qualified small business. We begin accepting these applications on December 1 in preparation for the January 1 allocation day. Once a qualified investor or qualified fund receives an allocation of tax credits, the investor has 90 days to make the investment. Following the making of the investment and within 120 days following the date of allocation of tax credits, the investor submits a notification of qualified investment to the department confirming that the investment was made and providing documentation as to the amount and date of the investment. In the alternative, the qualified investor may submit a notification informing the department that the investor

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

failed to make the investment. If the investor did not make the investment, tax credits are reallocated. If the investor did make the investment and all requirements are met for it to be a qualified investment, a tax credit certificate is issued. In order to be a qualified investment, it must be a cash investment made by the qualified investor or qualified fund that received the allocation of the tax credits from the department and must be made in exchange for an ownership interest in the qualified small business. The qualified investor must have at least \$25,000 in the qualified small business identified in the application for the allocation of tax credits. A qualified fund that received an allocation of tax credits from the department must have invested at least \$50,000 in the qualified small business. The department keeps a record of all tax credit certificates issued and provides data and information for the previous calendar year to the Nebraska Department of Revenue in mid-January so that Revenue can ensure investors receive their tax credits. Qualified investors, qualified funds, and qualified small businesses report to the department annually on the amount of money invested by or in it in the previous year. And as part of this report, they also certify that they continue to meet the requirements of the Angel Investment Tax Credit Program. Qualified investors and qualified funds must hold their investments in the qualified small businesses in which they invest for at least three years, consisting of the calendar year in which the investment was made and the two following calendar years. If the three-year holding period is not met, the department notifies the Department of Revenue, and Revenue recaptures the credit. A few additional points worthy of mention include most businesses are located within a distressed area. From 2011 to 2014, of the 72 qualified small businesses that had a potential investment, only 4 were not located in a distressed area. In the first full year of the program, 2012, the credits were allocated by July. In the second full year of the program, which was 2013, they were allocated by April. And in this year, 2014, all the credits were allocated on January 1 due to increased demand. So the first day they were available, it was done. There were more...there were more allocation requests received by January 1 than tax credits available, therefore, the department applied the statutorily required pro rata formula and each tax credit was roughly 86.24 percent of what it would have been had the program

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

not been over subscribed on opening day. We understand the desire to know what...to know whether business incentive programs are working and we understand that there is a desire to be able to measure success. And we certainly appreciate that. I'm here today to tell you that we believe the Angel Investment Tax Credit Program is working and here's why: Over the course of the program, each year the \$3 million tax credit allocation stimulates upwards of \$7.5 million in investment activity in our state. And between 2011 and 2014, 20 to 31 companies benefitted annually from the Angel Tax Credit Program. This means that early-stage companies engaged in innovation in Nebraska as a primary business activity are receiving the capital that they need to grow. As I mentioned previously, investing in early-stage companies carries a lot of risk, and without this program, we believe many of these investments would not have been made. We cannot say that some of these investors would not have invested in something somewhere without this money, but this program encourages investments to be made in early-stage companies in Nebraska and helps to direct those investments to growing innovation within our state, which we believe is incredibly important. I want to close by saying that the Legislature has been a great partner to DED and the business community in providing the tools necessary to compete for jobs and investment all across our state and all around the world. We share your commitment to ensuring that our incentive programs provide value to our communities, accountability to taxpayers, and attract world-class prospects that become Nebraska's best corporate citizens. Thank you for your time and I would certainly try to answer any questions you may have. And I may not know all your answers, but if I don't, I've got a couple staff folks back...members back here who can help me out as well. But I will certainly try to answer what I can. [LR444]

SENATOR HARMS: Thank you for your testimony. Do we have any questions? Senator Dubas. [LR444]

SENATOR DUBAS: Thank you, Senator Harms. Thank you, Dacia. As you... [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

DACIA KRUSE: And I'm sorry to interrupt you. I did pass out our...the latest annual report on the program, which is the only one that's...I mean, the program is very new in terms of the Angel Investment Tax Credit Program, and so that is the only report that is available at this time. [LR444]

SENATOR DUBAS: Earlier in your testimony,... [LR444]

DACIA KRUSE: Yes. [LR444]

SENATOR DUBAS: ...my question came to mind, was how are you advertising this program, is word getting out? But then when you just told me by January 1 of this year... [LR444]

DACIA KRUSE: (Laugh) Word is getting out. [LR444]

SENATOR DUBAS: So word is obviously out. Do you have any kind of an organized...I mean outside of like on your Web site, is there anything else? [LR444]

DACIA KRUSE: I mean, yeah, I mean it's on...yeah, it's on our Web site. We talk about it. I mean, I talk about it, previous directors have talked about it when we talk in front of groups. I mean we talk about it with businesses. I mean, yeah, word is getting out. [LR444]

SENATOR DUBAS: So it appears to be a very popular program and an effective program as well. And it also appears, compared to some of our other economic development programs, a little simpler to use, perhaps, or not? [LR444]

DACIA KRUSE: Yes, I mean, I would say yes. It is much simpler to use than Nebraska Advantage. If that's what you're comparing it... [LR444]

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Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DUBAS: But it's...it's just...it's just... [LR444]

DACIA KRUSE: ...if that's what you're comparing it to, it is much simpler to use than Nebraska Advantage. [LR444]

SENATOR DUBAS: Yes. Yes. And it's giving people who have the resources an avenue to invest those resources in Nebraska and in our businesses in Nebraska. [LR444]

DACIA KRUSE: Yes, and encouraging them to do that, yes. [LR444]

SENATOR DUBAS: Well, it sounds like it's doing what it was intended to do. [LR444]

DACIA KRUSE: Yeah. Yes. [LR444]

SENATOR DUBAS: Thank you. [LR444]

DACIA KRUSE: Thank you, Senator. [LR444]

SENATOR HARMS: Thank you, Senator Dubas. Senator Schumacher. [LR444]

SENATOR SCHUMACHER: Thank you, Senator Harms. So if I had \$100,000 worth of these credits, okay,... [LR444]

DACIA KRUSE: Okay. [LR444]

SENATOR SCHUMACHER: ...and I want my money, how do I get it? [LR444]

DACIA KRUSE: If you have \$100,000 worth of credits? [LR444]

SENATOR SCHUMACHER: Right. These are refundable credits, aren't they? [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

DACIA KRUSE: Um-hum. [LR444]

SENATOR SCHUMACHER: That's as good as cash. How do I go...what mechanism do I use to cash out? [LR444]

DACIA KRUSE: Through the application process, and we share that information with Department of Revenue, and then on your tax forms, I mean, you indicate that you...I mean they match up what you submit on your taxes with what Revenue has and the...I mean, you'll get that through when you file your taxes. [LR444]

SENATOR SCHUMACHER: Right. But I can get more money out than I ever would have to pay in taxes since they're refundable, right? [LR444]

DACIA KRUSE: Yes. [LR444]

SENATOR SCHUMACHER: Okay. So I can have a file...so what I, basically, have to do is file a whatever, 1040N or whatever, and show zero tax liability; credit, \$100,000; please send me a check. [LR444]

DACIA KRUSE: If that's how...if that's how your tax liability...if that's what your tax liability is, yes. [LR444]

SENATOR SCHUMACHER: Okay. So that's how I cash it. Now, I'm a little confused on this in-state/out-of-state business. If I'm live in...if I'm a California resident and I have a friend who is a California resident, and there's a young Nebraska gal whose got a terrific qualified kind of idea, and we say, look, I'll put in \$500,000, my friend is going to put in \$500,000, and we want 90 percent of your company, do I get credits? [LR444]

DACIA KRUSE: It's only available to Nebraska residents. So I'm not certain...when

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

you're talking about the California aspect of it, I'm not certain what your... [LR444]

SENATOR SCHUMACHER: Well, I notice here somebody from Palisade, California, is getting these things. Is that a person that has Nebraska tax liability? Or do I get these things irregardless of whether I have Nebraska tax liability? [LR444]

DACIA KRUSE: You know what, that all...let me double-check on that. I don't want to give you a wrong answer, but let...so let me double-check. [LR444]

SENATOR SCHUMACHER: Okay. Yeah. What I'm getting at, are we paying...what I see...the potential, and maybe it doesn't happen in reality, I don't know, but these two California guys who put in a million bucks are going to get \$400,000 worth of money by filling out one of these forms and sending it to the Department of Revenue. And they get a nice little check back in the mail. And now we have this Nebraska entrepreneur who ends up with 10 percent of the company. And how long do they have to leave it here before they can take the company back out of state, take it back to California? [LR444]

DACIA KRUSE: I mean, it's a three-year program. The investment has to be made...be there for three years. [LR444]

SENATOR SCHUMACHER: Done. Okay, so... [LR444]

DACIA KRUSE: But I...and I understand what you're asking. I don't want to give you a wrong answer. Let me double-check on that and I will... [LR444]

SENATOR SCHUMACHER: So, basically, if we do this right, we might be able to get this company moved back to California by buying out the 10 percent Nebraska investor and we'll have Nebraska invest \$400,000 out of the million. [LR444]

DACIA KRUSE: Well, yeah, will you say that one more time? [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: Okay, if we do just what I've described, me and my buddy out in California, we're residents out there, we buy this idea, basically, let the person keep 10 percent. We put a million dollars in; we get \$400,000 back. [LR444]

DACIA KRUSE: Um-hum. [LR444]

SENATOR SCHUMACHER: Okay. We leave it sit there and go for the mandatory, whatever, three years. Then we buy our Nebraska friend out and move the company to Silicon Valley where we wanted it in the beginning. Does that work? [LR444]

DACIA KRUSE: I believe under your scenario it might work...I mean it works, I believe, I believe. [LR444]

SENATOR SCHUMACHER: Okay, thanks. [LR444]

SENATOR HARMS: Thank you, Senator Schumacher. [LR444]

DACIA KRUSE: But... [LR444]

SENATOR HARMS: Oh, go ahead, I'm sorry. [LR444]

DACIA KRUSE: No, I'm sorry. Go ahead, Senator Harms. [LR444]

SENATOR HARMS: Well, I was just thanking Senator Schumacher. And I know that Senator Mello has a question. [LR444]

SENATOR MELLO: Thank you, Chairman Harms. And thank you, Dacia, for your testimony. And I guess real quick on...kind of on the general benchmarks and premises of what we as a committee are trying to do in regards to evaluate the Angel Investment

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

Tax Credit, is jobs...and I guess my general understanding is when we passed this legislation that the jobs component really is not a driving force to this. Because...and I don't want to sound critical, but maybe a suggestion for the next annual report is that there's not like a breakdown of the annual report of the number of jobs created by each entity, in part, because a supermajority of the entities had no jobs created. And I'm not being critical, because I understand when we passed this, creating jobs with start-up companies is not the focal point. It's getting these companies incubated to be able to let them grow so that someday they will be able to create jobs. But is there...as we're trying to evaluate this better, and other states have pretty good evaluations in place, is there something we should be considering besides simply qualified investment? Should we be considering patents that these start-up companies have created or any kind of federal funds, whether it's SBIR dollars or anything else that these entities are getting so that we can measure whether or not this is successful, because we know there's not a real job creation component with this? [LR444]

DACIA KRUSE: And patents may be one thing to look at, but I wouldn't limit it to just patents by these companies. But I mean, patents statewide, as you kind of alluded to in what you just said, Senator, I mean, jobs are not the driving focus of this. Encouraging innovation is and encouraging a culture of innovation and a state that supports that way of thinking and entrepreneurs. And so I think one of the ways you can measure that is by patents statewide, I mean, not just patents with companies who may be a part of this program. I mean that certainly is something to look at, because, again, this program is designed to create a culture of innovation statewide. [LR444]

SENATOR MELLO: Is there any...has there been any discussion within the department of a potential suggestion to this committee or the Legislature of how we could evaluate that? Because creating a culture of innovation is broad. And I can respect that; I've worked on issues around that. But it...explaining that sometimes to taxpayers is difficult to do... [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

DACIA KRUSE: I understand and respect that. [LR444]

SENATOR MELLO: ...of saying we're going to invest \$3 million to create a culture of innovation and we can't tell you quite...we can't quantify the number of jobs that are created, the number of patents that are coming from this company. Are there other suggestions you have that we should be considering of here's a way to be able...for start-up companies that have come through this process over the last three years now, here are some things that you should consider that we see good companies do this? And these are benchmarks that we think are things that are our ideal benchmarks that applicants should be trying to strive, even though it may not be in statute. And it's a way to be able to show people, this is a good program, we need to invest more money in the program and here's why. [LR444]

DACIA KRUSE: I mean, I guess sitting here today, I don't have any concrete suggestions for you. I mean... [LR444]

SENATOR MELLO: Could you...could you guys...would you consider going back with... [LR444]

DACIA KRUSE: Absolutely. Absolutely. [LR444]

SENATOR MELLO: I see...I see your deputy director (inaudible) business development over there. there. [LR444]

DACIA KRUSE: I mean, yes. I mean, yes. I mean, absolutely. We can talk about that. And if you have suggestions, we would be happy to entertain what you have and to talk about any ideas that you may have as well and tell you how that may impact the program one way or another. [LR444]

SENATOR MELLO: Okay. Thank you. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: Thank you, Senator Mello. Are there any other questions? [LR444]

SENATOR DAVIS: Thank you, Senator Harms. [LR444]

SENATOR HARMS: You're welcome. Senator Davis. [LR444]

SENATOR DAVIS: Just a...probably one question. You talked about the distressed area aspect of this. Can you elaborate on that a little more? [LR444]

DACIA KRUSE: And, I mean, in statute a distressed area is defined. Most of the state is, by the definition of that statute, I think, I don't know if it was Kim or the previous testifier, allude...I mean, talked...spoke to that too. I mean, by the definition that's in statute, geographically most of the state is a distressed area and, therefore, most of these companies have been in distressed areas. I mean, of the 72 unique companies, only 4 were not in a distressed area. [LR444]

SENATOR DAVIS: And do you know where those nondistressed areas are? I mean, can you tell me that or...? [LR444]

DACIA KRUSE: I can't...I can't tell you off the top of my head, but I can certainly get that to you, Senator. [LR444]

SENATOR DAVIS: I'd like to know that. I think that would be helpful. [LR444]

DACIA KRUSE: Okay. We can... [LR444]

SENATOR DAVIS: And I had the same question that you have with regard to the California individual. I think that is pertinent. I think that's all. I just had a question about the distressed area. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

DACIA KRUSE: Okay. [LR444]

SENATOR HARMS: Thank you, Senator Davis. Do we have any other questions?  
Senator Schumacher. [LR444]

SENATOR SCHUMACHER: Just one follow-up. Most of the people making these applications, I take it they have legal and accounting people help them make the application? [LR444]

DACIA KRUSE: Yeah, they may, I mean, they may. [LR444]

SENATOR SCHUMACHER: And, you know, I think Senator Harms maybe hinted at this, and Senator Davis also, about the distribution of these things. Are there only a very limited number of legal and accounting firms that are into this application process? [LR444]

DACIA KRUSE: No. This application process is not nearly as complex or involved as the application process that Kim was talking about for Nebraska Advantage. I mean, this one...I mean, it's not a detailed involved application process. So I mean they may or may not have tax and accounting help...or legal or accounting help, but it wouldn't have to be a specialized person who would help them if they would. [LR444]

SENATOR SCHUMACHER: So it wouldn't be fair to say that there's only two or three accounting firms or law offices in the state that are in the middle of these things. [LR444]

DACIA KRUSE: No. No. No. No. [LR444]

SENATOR SCHUMACHER: Thank you. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: Thank you, Senator Schumacher. Senator Mello. [LR444]

SENATOR MELLO: Thank you, Senator Harms. Dacia, a follow-up question, and I had this written down, but I forgot it. Is there any audits that the Department of Economic Development does on the recipients, both on the investor side and/or the business side, qualified small business side? [LR444]

DACIA KRUSE: No, I mean, we are not staffed or have the expertise to go into a business. They do file annual reports with us; both sides file annual reports. But in terms of doing an audit similar to what Kim was referring to in Nebraska Advantage, we do not. [LR444]

SENATOR MELLO: And I'm not trying to always look to give more work to Department of Revenue, but it...it...and maybe...and I can request the legislative history in regards to why we had Department of Economic Development administer this program instead of it going through Department of Revenue, I guess, in the sense of it being a tax...a specific tax credit similar to other tax credits or incentives. Do you know... [LR444]

DACIA KRUSE: I think...I can't remember either, Senator. [LR444]

SENATOR MELLO: I can't either and that's... [LR444]

DACIA KRUSE: I don't know why this ended up in...with DED. [LR444]

SENATOR MELLO: DED instead of Department of Revenue. [LR444]

DACIA KRUSE: I don't remember that conversation or how that happened,... [LR444]

SENATOR MELLO: Okay. Okay. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

DACIA KRUSE: ...why it's with DED. [LR444]

SENATOR MELLO: Okay. [LR444]

SENATOR HARMS: Thank you, Senator Mello. Do we have any other questions for Dacia? I do have just two, okay? [LR444]

DACIA KRUSE: Oh, okay. [LR444]

SENATOR HARMS: I want to follow up on a question that Senator Dubas asked about how you distribute this. And you said, well, that the word is getting out. I just want to know whether you have a formal process other than through the technology and the Web and all that sort of stuff, on Facebook, whatever we're using. Do you have a program that actually goes out and talks to people in rural Nebraska about these programs? Because I still worry about...and I don't always mean to be leaning towards rural Nebraska, but it's where I come from. I also know how they struggle and just don't have people there to help them. So my question then, do we have...what kind of program are you going to put together or you have put together that will address this issue? [LR444]

DACIA KRUSE: I mean, I think it's important to note that the investors who actually receive the tax credit are statewide. I mean, they're not just Lincoln and Omaha, eastern Nebraska individuals who are receiving the actual monetary benefit from the state. They are individuals, I think that you can see in the report, from across the state. And so I do think investors across the state are aware of the program and know it's out there. Can we be doing better? We can always be doing better; we can always...I mean, there's always room for improvement. But do we have a formal program where we...I mean, in January we do this, in February we do this, in March we do this to communicate the Angel Investment Tax Credit Program? No. And so, I mean, we can always be doing

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

better. But there are investors, I mean, across the state who are benefitting from this program. [LR444]

SENATOR HARMS: Okay, thank you. The second question I have then is, in the law itself that you gave us, the very last term in there where it says "similar fields," and first of all, we list all of those out and we talk about similar fields. Have you ever had that...have you had the question posed to you yet, or the arguments yet, about what similar fields are? I can see that coming. And I voted for this, by the way. I was very supportive on the floor. [LR444]

DACIA KRUSE: And we appreciate it. [LR444]

SENATOR HARMS: But as I look at it, I mean, I look at the term "similar fields," I can see all kinds of flags starting to come up in mind. What are similar fields and how are you going to defend that if one of my colleagues decides they want to take that issue on, that we don't think it's similar? [LR444]

DACIA KRUSE: No, that's a good point. To the best of my knowledge, we have not...that has not become an issue, but I see the point you're making. [LR444]

SENATOR HARMS: Yeah, I'm just wondering whether we shouldn't define that someplace so that it protects you, because you're administering the program. I don't know. Maybe I'm too cautious. Because as I said, after being supportive, then just seeing it after it's cold, it just jumps out at me. I'm not sure what that means for sure. And I could see where I can argue with you a lot on that issue. [LR444]

DACIA KRUSE: I mean, I see the point you're making. I do think it gives... [LR444]

SENATOR HARMS: Okay. Gives you flexibility. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

DACIA KRUSE: ...us some flexibility in administering the program. [LR444]

SENATOR HARMS: I agree. [LR444]

DACIA KRUSE: And so I would... [LR444]

SENATOR HARMS: You could do it, but I just would caution you that that's a potential problem for you somewhere along the line because of all the money that's involved in this and the investors. So I just...I don't know whether I'm too cautious or not. But it's something maybe my colleagues might want to think about. Do we have...Senator Schumacher. [LR444]

SENATOR SCHUMACHER: That just brought...thank you, Senator Harms. Are legal fees in setting up the "heaven" for the angels to go to, (laughter) are they part of the qualified investment? (Laughter) [LR444]

DACIA KRUSE: What are...I'm not sure what you're... [LR444]

SENATOR SCHUMACHER: In other words... [LR444]

DACIA KRUSE: I'm not sure what you're asking, Senator. I apologize. [LR444]

SENATOR SCHUMACHER: ...in order to get the company going, we're going to have to spend \$50,000 in legal fees, okay, and to get everything set up and whatever regulatory stuff, whatever we can dream up. And is that...can you get the Angel Investment Credit to go toward the legal fees? [LR444]

DACIA KRUSE: The Angel Investment Credit go... [LR444]

SENATOR SCHUMACHER: We're going to have a qualified investment when we're

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

done. We're going to have something that's technologically spiffy and whatever meets the requirements. But in that expense, do legal expenses...is that part of the investment, or do we have to go out and buy a building or something? [LR444]

DACIA KRUSE: It has to be in equity. [LR444]

SENATOR SCHUMACHER: Well, it's equity, because I now have a business that has a bunch of legal papers. [LR444]

DACIA KRUSE: That would likely not qualify. [LR444]

SENATOR SCHUMACHER: So legal fees...you just shot down an idea I had, because one way to get this information out is you go to the bar convention that a whole bunch of lawyers have got to say...attend and say, hey, we got this terrific program and you maybe could make money off of it. And maybe go to the bar convention anyway, because what better way to disseminate information than to tell a bunch of lawyers that, hey, we've got something free for your clients? [LR444]

DACIA KRUSE: Absolutely, although I will tell...I mean as...as a record...I mean as the numbers reflect, I mean, we...on the first day it becomes available, we don't have, I mean, we run out. And so getting people to use this program is not our issue. [LR444]

SENATOR SCHUMACHER: But they get a prorated anyway, right? [LR444]

DACIA KRUSE: Yes. Yes. [LR444]

SENATOR SCHUMACHER: So there's still 89 percent or 82 percent free. [LR444]

DACIA KRUSE: Yes. Yeah. Yeah. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: Okay. [LR444]

DACIA KRUSE: Yeah. [LR444]

SENATOR SCHUMACHER: All right. Thanks. [LR444]

SENATOR HARMS: Thank you, Senator Schumacher. Do we have any other questions? Thank you for your testimony. It's appreciated. Thank you. [LR444]

DACIA KRUSE: All right. Thank you, Senators. [LR444]

SENATOR HARMS: This closes this portion of our hearing. Now we're going to go into the other segment of our work. You want to go ahead and start or you want to take a break? [LR444]

MARTHA CARTER: I think we have lunch, but we can talk until 12:00 if you'd like to. [LR444]

SENATOR HARMS: Would you like to? It's really up to you. I worry a little bit about the continuity, once we start. [LR444]

SENATOR MELLO: Is this an Executive Session? [LR444]

SENATOR HARMS: No, it's not. [LR444]

SENATOR MELLO: Or is this public? [LR444]

SENATOR HARMS: It's public. Isn't it? [LR444]

MARTHA CARTER: We hadn't talked about Executive Session, but... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: No, we're not going to have an Executive Session, no. [LR444]

MARTHA CARTER: ...that's your choice. [LR444]

SENATOR HARMS: I'd just like to have it open. I've always believed in transparency as much as possible, so. My thoughts are, would you like to start this discussion on the second portion of what we want to discuss or would you like to wait until after lunch and come back where then you have the whole total continuity with that? It's really up to you. Makes no difference to me. [LR444]

SENATOR MELLO: We probably could...I mean... [LR444]

SENATOR DAVIS: Want just to come back at 1:00? [LR444]

SENATOR MELLO: I think we could try to get this done before noon unless everyone's got...unless Senator Watermeier wants to filibuster. Senator Schumacher, no? [LR444]

SENATOR SCHUMACHER: I don't know. Brainstorm some ways to get this money. [LR444]

SENATOR HARMS: I'm not sure you're going to get it done by noon, so. [LR444]

SENATOR MELLO: Really? [LR444]

SENATOR HARMS: Yeah. There's room in here for a lot of discussion. And so it doesn't make any difference to me. We can start and go as far as we can, break at noon, come back at 1:30 and go. Is that your choice? [LR444]

SENATOR DAVIS: Or would you like to break now and come back at 1:00? [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: We can do it now, come back at 1:00 if you'd like to do that.  
[LR444]

SENATOR MELLO: Yeah. We'll come back at 1:00. That's fine. [LR444]

SENATOR HARMS: One will be fine then; let's do that. Is that agreeable? Okay, we'll close the session now and we'll reopen it at 1:00. [LR444]

MARTHA CARTER: One o'clock? [LR444]

SENATOR HARMS: One o'clock, yep. [LR444]

BREAK

SENATOR HARMS: Why don't we go ahead and get started so we can kind of get out of here early and make sure that we meet everybody's schedule. So, Martha, yeah, I'm going to let Martha, the staff take it from this point. So I would like to make sure that as we go through this, if you have your questions, at that point ask the question. If you want to have something changed, this is the time to do it so we get all that incorporated. And we won't do it at the end. I just feel like it's better to do it at the time you're thinking about it. [LR444]

MARTHA CARTER: (Exhibits 9 and 10) So we sent out to you two documents that we would just like to walk through with you. One is the discussion to date document on the tax incentives evaluation and the other one is the goals and metrics update. So, really what...I just need some direction from you about how much you want me to go through these in detail. So I'm going to go through kind of quickly, but if you want more detail, just stop me. So the first document, really, is the overview of the key issues that the Pew Center had identified when we started this interim study and said these are the

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

things that the committee should look at and make decisions about. And so I guess my understanding from Senator Harms is that your goal is to meet in October and actually make decisions. So from the staff perspective, what we're looking for this afternoon is what else do you need from us before October so that you feel comfortable and ready to make your decisions. So the first issue that the Pew Center identified for you is to design a strategic evaluation schedule. And they had originally suggested that the...that we do evaluations one every three years based on the existing broad goals. The problem that came up with that is that, in order to spread them over three years, you'd have to break up the Advantage Act. And the more that we talked to the Department of Revenue and other people, that doesn't really seem too workable. So we're looking for plan B right now. And our last conversation with Pew, we talked about maybe the first year would be the smaller programs and then allow two years, at least in the initial evaluation cycle, to do the Advantage Act. Another option that we were just talking about, as staff, is...I mean, one of the issues that we're going to come up against is you're going to have the metrics that are the areas you're interested in measuring. We know there are going to be some difficulties with getting the data in order to actually measure those. And the first round of evaluations is going to have to...I mean, we can do a certain amount of work before we get started, but the rubber is going to hit the road on that first evaluation. That's when we're really going to figure out, do we have the information? If we don't have the information, what else could we do, that sort of thing. So another option for the schedule would be that first year, think of it as sort of a pilot project. Take one tier from the Advantage Act and a couple of the smaller programs, and try and do that in the first year, the rationale being that it's really the Advantage Act that's going to be the big challenge in terms of the data. So why put that off, you know, for that first evaluation. Why not try to do a little bit of that in the first year, as well as a couple of the other ones, so that we would get a better test of what is and isn't available. [LR444]

SENATOR HARMS: Let's just stop right here. What are your thoughts? Do you feel comfortable? Was that the direction you'd like to go? [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR MELLO: And that's based off of...that's based off the Legislature passing a bill in 2015 so that the process would... [LR444]

SENATOR HARMS: Right. [LR444]

SENATOR MELLO: ...bill starts in '15; the first evaluation would be done at the end of 2016 then, December 2016? [LR444]

MARTHA CARTER: That's what we're thinking, yes. [LR444]

SENATOR MELLO: And then the next one would start January 2017, and be done December 2018 then for the Advantage component? [LR444]

MARTHA CARTER: I think it's going to depend on how we're doing the Advantage Act. Like under the schedule in the handout, what we were thinking was the first year would be all of the smaller programs, so that would be done in 2016. And for the first evaluation of the Advantage Act, allow two years and say...so it would be completed no later than 2018. [LR444]

SENATOR MELLO: So you were thinking like maybe breaking up the tiers, like Tier 1, 2...Tier 1 and 2 and 3 done 2017, and then 4, 5, 6 in '18? Is that or... [LR444]

MARTHA CARTER: Actually, we were just thinking of giving a two-year window... [LR444]

SENATOR MELLO: Okay. Okay. [LR444]

MARTHA CARTER: ...for the whole Advantage Act. [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR MELLO: Oh, okay. [LR444]

MARTHA CARTER: And I don't...you know, we could, conceivably, do it that way. I don't know. I hadn't thought of it. [LR444]

SENATOR MELLO: But just the two year... [LR444]

MARTHA CARTER: But just more time because we know how big that's going to be. [LR444]

SENATOR MELLO: That's reasonable. [LR444]

MARTHA CARTER: But the other...like I say, the other thing that now we're kind of wondering is should we do...just, you know, really almost a pilot evaluation so that that first year would be a little bit of the program that we know is the biggest and some of the ones that we know are smaller to give us a better idea. [LR444]

SENATOR SCHUMACHER: How far do we extend out the Advantage Act? Was that four years? [LR444]

SENATOR MELLO: Two. [LR444]

SENATOR SCHUMACHER: Two. [LR444]

SENATOR MELLO: We would have to extend...we would also have to extend the sunset on Advantage as well to follow this time frame. I mean, you kind of have to. [LR444]

SENATOR SCHUMACHER: Would you want to? I mean, is there certain merit to deferring any extension until we see how well and how cooperative the evaluation

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

goes? I don't know. I mean it's hard to say what you're going to get out of it. But once extended, it's extended. There's an additional financial commitment that's being made. We probably would, but nevertheless that decision should be conscious because that kind of rolls in with how we schedule this. [LR444]

SENATOR DAVIS: We wouldn't be able to...if we had to wait until the end of 2018 and nothing...no changes would really take place until 2019-20, so we're a long way out. [LR444]

SENATOR SCHUMACHER: Yeah. I don't know. And maybe we...maybe everything will be, you know, just fine. But every day new commitments are being made and new people are relying on it and planning on it and so... [LR444]

SENATOR HARMS: So what is your pleasure here? What would you like to have done then? [LR444]

SENATOR DUBAS: I guess my question is, the assumption is the Performance Audit Committee or staff is going to be doing all of this evaluation? [LR444]

MARTHA CARTER: And that is another key issue... [LR444]

SENATOR HARMS: It's another key issue. [LR444]

MARTHA CARTER: ...that we need to get to, so. But I think...I mean... [LR444]

SENATOR DUBAS: I think time... [LR444]

MARTHA CARTER: ...that's what the committee has talked about. [LR444]

SENATOR MELLO: I like the general schedule, though. If it's '16, and then '17-18 for

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

Advantage, that's doable (inaudible). [LR444]

SENATOR DAVIS: Is there any way we could do it...back it up one year? If we got a bill through this session with an E clause on it, do the early ones in 2015? [LR444]

SENATOR HARMS: I don't think there would be any...I don't want to interfere, but I don't think there would be any reason why we couldn't do that except you'd have to understand when we do this, we're...what other issues we might be taking on might be tabled and pushed back because we don't have the kind of staffing. [LR444]

SENATOR DUBAS: You know that...we have to discuss the staff's... [LR444]

MARTHA CARTER: Right. And the staffing is a critical issue because,... [LR444]

SENATOR HARMS: Sure. [LR444]

MARTHA CARTER: ...you know, with all of the other evaluations that we do, we as staff are generalists. We don't specialize in particular, you know, child welfare and Corrections, that kind of thing. If this is really going to be a statutory requirement, this is an ongoing evaluation process, then we need to have at least one person who is just dedicated to doing this. [LR444]

SENATOR DAVIS: Right. [LR444]

MARTHA CARTER: So that's why I was hesitating is could we get somebody hired and up to speed and get an evaluation done in 2015? I wouldn't say it's impossible, but I would have some hesitation about it. And, especially, I'm assuming it may not be able to get this passed like in January. You know, the further that you go into the long session, the tighter that window... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DUBAS: I think the decision on who actually ends up doing this evaluation is going to generate an extreme amount of discussion amongst the body. [LR444]

SENATOR MELLO: Really? You think so? Honestly? [LR444]

SENATOR DUBAS: I do. I really do, because I think everybody is going to have an opinion on what's...depending on how it comes out of the committee, I guess, you know, and what it looks like. You know, if there's a strong consensus and a willingness of the committee to really make the case, maybe there won't be. But I think there will be discussion about what's the best...who's best equipped to do these evaluations. And to me, that's where it all comes back to is what you're...like you said, having to hire somebody, the time line it takes to do that. [LR444]

SENATOR SCHUMACHER: Well, you know, staff to be able to become familiar with these kind of very complex issues, stay familiar rather than put them aside and have to do something else, in the context of nobody being around here in the Chamber very long I think is something we should not try to pinch pennies on. [LR444]

SENATOR DUBAS: No, I agree. [LR444]

SENATOR SCHUMACHER: I mean, you just...you know, you put... [LR444]

SENATOR DUBAS: If we're serious about doing this. [LR444]

SENATOR SCHUMACHER: ...it in the budget, whatever, and... [LR444]

SENATOR MELLO: Yeah. [LR444]

SENATOR SCHUMACHER: ...and just have it part of the institution. Because this current environment is going to be part of the institution one way or the other for a long

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

time. And, you know, there's enough money moving through here, when you're talking about literally hundreds of millions dollars, to worry about a few hundred thousand dollars for staff is just... [LR444]

SENATOR MELLO: I know it seems like we're kind of moving straight to item 4. [LR444]

MARTHA CARTER: It's up to you. [LR444]

SENATOR DUBAS: But it just feels like they go together...they really go together. [LR444]

MARTHA CARTER: No, you do what you need to do. [LR444]

SENATOR MELLO: I think, I mean if we want to move right to that general issue of who does it, how it's done, I mean, I don't think...and Senator Hadley and myself had some conversations about this at previous meeting as well. I don't see, really, any other scenario where it's not the Performance Audit staff who's doing this, who is the lead entity doing it. Now I'd expect them to be working with, in the Legislative Council, primarily with the Fiscal Office in regards to using their expertise. And then putting requests in to the Department of Revenue in respects to getting the access to data and information the same way they can do that now under current statutory law that allows Performance Audit staff to go in and get some information. I asked the question today about the confidentiality issue because I wasn't for certain their general and how restrictive they are to get some of that tax data. I think the question...and I still...I mean...so I don't think it's really...I don't think a lot of members will... [LR444]

SENATOR DUBAS: You don't think... [LR444]

SENATOR MELLO: ...have complaints about that. And if it's a hiring...if it's a matter of hiring an auditor exclusively just to focus and do this, that's a policy consideration I

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

guess the body will consider. I think it's, knowing with term limits and if this is going to be more of an institutional component of the Legislature in regards to evaluating tax incentives the same we evaluate the budget in a much more detailed and a very long drawn out process, I don't think the cost associated with hiring of an additional performance auditor to do that is...I think it's money well spent. I think the question is the committee structure though which I...I don't...I talked with Galen about it and I wanted to make sure I understood where his concerns and thoughts were. I think...you know what, I think the committee that you have structured now with Performance Audit Committee, as well as the Chair and Vice Chair of Appropriations and Revenue that sits on it, just so happens that both the Appropriations Chair happens to sit on Performance Audit and Vice Chair as well, I think it's a pretty good committee makeup to assist to do this. I mean, I think Galen's point was no policy changes though. Like that committee doesn't do any policy changes; it still all goes to the Revenue Committee. Everything still goes to that committee for bill introductions and anything else. [LR444]

SENATOR HARMS: When you look at it long term, the Performance Audit Committee has been in there how many times now. [LR444]

MARTHA CARTER: Several. [LR444]

SENATOR HARMS: A lot. And so we understand what the issues are. They've worked with the people. They've built that trust. I think if you deviate very far from that, then those people have a whole learning curve they're going to have to go through and this is going to go nowhere. So I think if we can keep the Performance Audit involved, we're better off. [LR444]

SENATOR DUBAS: Yeah. I think, you know, if we can make those points in a very organized fashion, when you guys come back next session. [LR444]

SENATOR HARMS: And any policy changes we would recommend out of this is going

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

to have to go to the appropriate committee. [LR444]

SENATOR MELLO: Committee, standing committee, yeah. [LR444]

SENATOR HARMS: So that's... [LR444]

SENATOR DUBAS: That's probably where I think, maybe, some of the rub will come because committees are going to protect their territories. [LR444]

SENATOR MELLO: Look, I don't disagree. Galen and I, we had been...and Paul, I'd love to hear your thoughts on it. I mean, I understood where Galen was coming at of saying, I don't want to see another committee coming and start making... [LR444]

SENATOR DUBAS: So as long as it's very carefully constructed? [LR444]

SENATOR MELLO: I don't want...yeah, I don't want to see another committee come and be able to start introducing bills on Nebraska Advantage and bills are being heard in this committee and that's nothing that this is the way it's structured. I mean, that's not the way any other state does it. It's the evaluation only. Any bill or statutory changes have to go through the appropriate standing committee, because this is still only...this would still only be a select committee if it was created in statute. So...which is a combination of Performance Audit, Chairs and Vice Chairs of two other standing committees. But structuralwise, that's at least the way I've kind of looked at it conceptually. And I, knowing that I'll be here at least in January, you know, I assume that we can make an argument that this process has worked well. Performance Audit staff is professional; they know what they're doing and if they need additional resources to do it, I don't know if there's any other...I mean, Fiscal is the only other entity that I'd assume within the Council, so to speak, would be really heavily involved in it. I mean, maybe Legislative Research if you asked them, but more the Fiscal Office trying to be of assistance to this as well. I mean, but... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: Now, are you...you're just saying that this would be the Performance Audit Committee's responsibility to do this. It would not be this committee or the LR... [LR444]

SENATOR MELLO: That's...I think that's the, John, I think that's the dilemma... [LR444]

SENATOR DUBAS: Yeah. [LR444]

SENATOR MELLO: ...that's the dilemma that I run into is I'm fine...see but...I, as Appropriations Chairman, automatically on Performance Audit. That's why. And I think having Paul, having the Revenue Committee Chair and Vice Chair part of this discussion because all of these bills go their committee... [LR444]

SENATOR HARMS: Sure. [LR444]

SENATOR MELLO: ...I think has been helpful. And I think Hadley and them being involved in the evaluation process doesn't hurt either. That's why I'm more of a fan of this kind of hybrid committee structure that we created. I'm fine with it. I like it because I think it adds points of view outside of the Performance Audit, because we may not always have the Chair or Vice Chair of Revenue on Performance Audit. [LR444]

SENATOR HARMS: Yeah. And so if we walk this direction, you're going to have to have some legislation if you want this committee to do it. This isn't just a short range LR444. So you're going to have to change that or you just leave it with Performance Audit Committee and with them. Then add the Chair of the Revenue Committee to it by law, that they would be a part of it. I don't know. [LR444]

MARTHA CARTER: Or would it be possible, I think it depends on the extent to which you want people outside of the Audit Committee involved, how far you'd need to go.

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

Because the Audit Committee could invite the participation of the people that you're talking about, you know, include them in meetings and all of the discussions and that kind of thing. The only thing that would not be possible is the sharing of information that is...statute allows to the Audit Committee but would not allow to those other people. But I'm not sure that's what you're...if you're talking about that other people need to be involved in the direction things are going and whether the metrics are working and that kind of thing, would inviting participation in the Performance Audit Committee function serve that purpose or is it not formal enough? [LR444]

SENATOR MELLO: It would, I mean, it...you could, it would. I mean, I... [LR444]

MARTHA CARTER: Yeah, I don't know either. I'm just asking. [LR444]

SENATOR MELLO: I don't have to be sold...overly sold on it. I mean, I've always thought that everything needs to rest in Performance Audit Committee anyway. But I was just kind of trying to defer a little bit more to Paul and Galen to see their general views of whether or not...whether or not they would need to be a part of a more formalized structure in that respect. [LR444]

MARTHA CARTER: Yeah. [LR444]

SENATOR SCHUMACHER: Well, I think what's got to be somehow maintained is pretty free flow of information and background and skills between...if Revenue Committee is going to remain to be the place where revenue bills originate, you've got to have that information both directions. You've got to be able to ask the questions here which deal with the...definitely a revenue topic. It's...we're basically setting taxes when you give away credits. And also the consensus and the result of any research here that happens when you go back and we close the door in Executive Session, whoever is on the Revenue Committee, and they say, okay, how does...where are you coming from here, somebody there to explain it. And also they integrate it with some other ideas that might

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

be before the Revenue Committee to do with whether you should have the tax at all, whether...you know, where are we going to get the money if we do more of this or less than that. You know, there has to be that somehow or another to flow of the information back, whether it's committee membership or whatever. This is working pretty good. I think with a couple of people to carry back, there may be alternative mechanisms. But it's really, really hard, I think, to explain something if you haven't sat in on these hearings. And to pick up a report along with ten gazillion other reports and try to remember exactly who did what, for me at least, it's easier to have been in the discussion than to remember what report said what. [LR444]

SENATOR HARMS: So if we look at it then, we need to formalize this because whatever we decide to do, we need to have it pretty-well identified, because we're all going to be gone here. We're all short termed. Years are not very long for anyone. So there's no question in eight years from now or ten years from now what this process...you better put it down so it's clear, it's understandable, and people know whether there may have to be a change in the law. I don't know. With the way the term limits are today, without something really formal, I'd be a little worried if I was on the other end of this. [LR444]

SENATOR DAVIS: What is the current makeup of this committee? Appropriations Chair, Performance Audit. [LR444]

SENATOR HARMS: Pardon me? Sure. [LR444]

SENATOR MELLO: Of what? Of Performance Audit Committee or... [LR444]

SENATOR DAVIS: No, this particular (inaudible). [LR444]

SENATOR MELLO: This is Performance Audit Committee, Chairs and Vice Chairs of both Appropriations, Revenue, and one at-large member. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DAVIS: I'm the at-large. [LR444]

SENATOR MELLO: And it just so happens that the Chair of Appropriations automatically sits on Performance Audit and it just happens the Vice Chair has been the Chair of the committee for the last six years. [LR444]

SENATOR DUBAS: I think to get this off on the right foot, we really do need to have a very solid policy recommendation in place. [LR444]

SENATOR HARMS: Oh, I agree. [LR444]

SENATOR DUBAS: And I think formalizing this committee...I would agree with you. [LR444]

SENATOR MELLO: I like formalizing (inaudible). [LR444]

SENATOR HARMS: Yeah. [LR444.]

SENATOR DUBAS: I think this committee structure... [LR444]

SENATOR DAVIS: That's kind of what I think too. [LR444]

SENATOR DUBAS: ...it...I think it takes some of the pressure off of just having it with Performance Audit Committee. [LR444]

SENATOR HARMS: Would agree. [LR444]

SENATOR DUBAS: And like Paul says, to be able to go back and convey to the rest of his Revenue Committee or whatever, I just think...and this kind of spreads some of that

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

around. [LR444]

MARTHA CARTER: So then would you see that committee as having the same authority as the Performance Audit Committee now has, that committee having the same authority for only the tax incentive evaluations as a Performance Audit Committee has for all of audits right now? [LR444]

SENATOR DUBAS: I wouldn't see this committee introducing legislation. [LR444]

SENATOR MELLO: I would say...I would say...I would say close to everything, at least your authority, staff authority, because you're staffing it. But I would not see...I wouldn't see this committee...if it was a...this formalized as a committee, I wouldn't see the ability to introduce legislation. I would see...because I...I would... [LR444]

SENATOR DUBAS: Like you said, a select committee kind of... [LR444]

SENATOR MELLO: It's a select committee feeling, but it's, you know, it's not the same thing as Performance Audit, but it's driven by Performance Audit. And I think Paul...I mean you're going to have the Revenue Committee, I think, is still going to have some concerns, which is if you have this committee starting to introduce legislation and then starts to...can feel like it could be...conveyed a little bit like it's starting to take away some of the policy areas of the Revenue Committee. [LR444]

SENATOR HARMS: Well, one of the things I've always cautioned Martha about is, even with Performance Audit, when we have issues that come up that we know we're going to have to have legislation, for us to be very careful when we're introducing it. It needs to go to that Chair and we always have made an effort to talk to the Chair. And lots of times, the Chairs say, why don't you guys just do it, you have the background, we'll support it, just give me the information and we'll help you on the floor. Maybe it's coming through their, you know their Chair. That's really important. You start circumventing this

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

committee structure, you're dead, and we don't want to do that. That's why I think it's been real smooth. When we're looking at the structure, I guess could this be a subcommittee, an ad hoc committee of the Performance Audit when we deal with these particular issues, such as this evaluation, this group comes together? Or do you want it a separate, independent standing? I mean I'm trying to put this... [LR444]

SENATOR MELLO: That's not a bad idea either, John. [LR444]

SENATOR HARMS: I'm trying to put this in my mind about organizational charts. So how would it look on an organizational chart, so it's easy for someone to understand? If you had it under Performance Audit and had this as an ad hoc committee and the only time they come together and work is over this issue, and they can make their recommendation from this point to either our committee or to the Revenue Committee and it goes. But I don't know. I think somehow you got to...you're going to have a conflict. [LR444]

SENATOR DUBAS: I think that would take away some of that concern about if they would start... [LR444]

SENATOR MELLO: Yeah. [LR444]

SENATOR DUBAS: ...if this committee would start introducing legislation or something like that. [LR444]

SENATOR HARMS: Yeah. No, you're in trouble. [LR444]

SENATOR DUBAS: That would really put some parameters around the committee, still get...make it be a very effective committee. But as a subcommittee of Performance Audit, I think maybe that would take some of those... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: Then who in that circumstance would vote on the report?  
This committee or does it... [LR444]

SENATOR HARMS: This committee would vote on the report. [LR444]

SENATOR SCHUMACHER: If overridden by the whole Performance Audit Committee?  
Let's suppose this committee said, you know, something is good and the sentiment was  
different on the Performance Audit Committee. I mean, whose vote counts if the  
Performance Audit Committee is up the ladder? [LR444]

SENATOR HARMS: I don't really think you're going to have a problem because this is  
the Performance Audit Committee. [LR444]

SENATOR DUBAS: Yeah, the majority of the members are Performance Audit. [LR444]

SENATOR HARMS: The majority of the members are here. You're going to have the  
majority. So it would go to that, I would assume...if you looked at an organizational  
chart, it would automatically go to the Performance Audit Committee and then they  
would make their recommendations, say, yeah, we support this; and it goes to the  
Revenue Committee or wherever it's supposed to go. Or if they say, you draft the  
legislation, like they have in the past... [LR444]

SENATOR MELLO: And Performance Audit could introduce legislation still, because  
Performance Audit Committee can introduce legislation based off an audit that was  
done... [LR444]

SENATOR HARMS: Sure. [LR444]

SENATOR MELLO: ...or a report that was done for the committee. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: But I want to make sure you understand, we always go to the committee who has that responsibility first and have that discussion. And usually what they'll say to us, has historically, unless I'm wrong, they'll say, no, you guys draft it and... [LR444]

SENATOR MELLO: Yeah. They always have the committee, they always let the committee do the bill, introduce the bill, I mean. [LR444]

SENATOR HARMS: Right. [LR444]

SENATOR SCHUMACHER: Is there danger then of forum shopping by the various interests? Well, we'll lobby Revenue or we'll lobby...you know, we've got two shots at the apple. [LR444]

SENATOR HARMS: Well, I'll tell you what. This prevents it when you go with the way we kind of do it now. They got to do a lot of lobbying. [LR444]

SENATOR DAVIS: I wouldn't think this committee would be introducing any legislation that would be putting forward tax credits. I think if we did anything it would be to say we need to limit these tax credits. Do you see what I'm saying? [LR444]

SENATOR DUBAS: Or modifying programs. [LR444]

SENATOR DAVIS: Modify them. [LR444]

SENATOR SCHUMACHER: Modify, you know, you're probably...at the end of the day we're going to find merit in most, if not all, of these. We're also we're going to find fault in most, if not all, of these. [LR444]

SENATOR DAVIS: Right. But see what my point is, if somebody is shopping, they're

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

going to go to Revenue to introduce something. [LR444]

SENATOR HARMS: Sure. [LR444]

SENATOR DAVIS: Because this body is, really, its purpose is to see whether they're working or not and, you know, change them if they aren't. [LR444]

MARTHA CARTER: And as far as the Performance Audit Committee's authority to introduce legislation, it's tied to the recommendations in the report so the other thing that has happened, it hasn't happened very often, but we have had dissenting opinions in reports. We can do that if necessary. [LR444]

SENATOR HARMS: So would we be comfortable with what we're talking about now, the concept of this being an ad hoc committee or subcommittee, whatever you want to call it, whatever term, of Performance Audit? The report then of our findings would go to Performance Audit. They would approve it and then it's distributed to the Revenue Committee or wherever it goes from that point on. Is that what we're talking about? [LR444]

SENATOR DAVIS: I think so. [LR444]

SENATOR HARMS: I feel comfortable with it. But I don't know. I'm not on the Revenue and... [LR444]

SENATOR SCHUMACHER: Well, anything that makes any measurable change in any of these is going to be, probably, you know, end up on the floor in a fairly vigorous debate, so. [LR444]

SENATOR HARMS: But the nice thing about this is that you've got an awfully strong group of people here. And you go to the Performance Audit Committee and you

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

guys...and Revenue is going to be represented with the key leadership, that will make it a lot tougher to take on because you're taking on some of the key leadership. So they can battle it, but the concept is probably pretty good. [LR444]

SENATOR DUBAS: Well, and you're going to have people on the floor who will be very well versed... [LR444]

SENATOR HARMS: Sure. [LR444]

SENATOR DUBAS: ...in whatever the debate is. [LR444]

SENATOR HARMS: And that's nice, that really makes it good. [LR444]

SENATOR DUBAS: And it's not going to be just privy to one committee. It's going to be a good cross-section of the Legislature can make the case. [LR444]

SENATOR HARMS: So are we agreeable to this then? [LR444]

SENATOR DAVIS: I think so. [LR444]

SENATOR HARMS: Okay. All right. Let's go back then, because we left unfinished the last question we had that Senator Mello wanted to move us real quickly to about how we're going to lay this out--2015, 2016, 2017, and '18. Let's go back, now that we understand the structure, let's go back and now talk about how that's going to be dealt with. So what would you like to...what are your thoughts? [LR444]

SENATOR MELLO: I like this layout. [LR444]

SENATOR DUBAS: I like the way you have it mapped out right now. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: Agreeable? [LR444]

SENATOR DUBAS: I do. I think you cut your teeth on those smaller programs; whoever this new staff person is will come in and really see how the process works and then will be better prepared to take on the big program. [LR444]

SENATOR HARMS: Okay. And we agree upon the schedule? [LR444]

SENATOR DAVIS: I agree. I just would like to see if we can tighten the timetable up some. That would be helpful, but not required. [LR444]

MARTHA CARTER: Understood No, I understand. I understand and... [LR444]

SENATOR HARMS: If...I was just thinking about if when you draft this law, are we going to want to use the dates, because you're going to have to come back after 2018 and redo this? That's what I'm thinking about as I look at this now. How can we draft that? Could we say every two years or every three years starting of...and don't use the...the years because you're going to be forced to come back and have this discussion again. [LR444]

SENATOR MELLO: We've done it, John, in some bills Paul and I worked on the last couple years with the tax expenditure report where it has a date you do the initial report. And then every three years after that initial report, is done on that date. I mean, so... [LR444]

SENATOR HARMS: Okay. As long as we do that, I don't have a problem. [LR444]

SENATOR MELLO: We can do that, I think, languagewise,... [LR444]

SENATOR HARMS: Okay. [LR444]

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LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR MELLO: ...to specifically spell out 2016, 2017, 2018, and then do a rolling time frame afterwards. [LR444]

SENATOR HARMS: Okay. I don't have a...everybody agreeable at this point? [LR444]

SENATOR DAVIS: Yes. [LR444]

SENATOR HARMS: Okay. Martha. [LR444]

MARTHA CARTER: So item 2 is the idea of adopting guidelines for your metrics and then identifying the metrics. The guidelines that Pew suggested are listed at the top of page 3. And my recollection is that this committee has been pretty comfortable with those. And then the next part is collecting and assessing relevant data, and I think that...that is all going to need to be part of the discussion of the individual metrics. So maybe before we do that, five and six, so you've talked about the Audit Office being...taking the lead in the evaluations. And then five is the question about is there going to be the capability to do economic modeling. And I see that as a separate question from is there going to be another auditor who is going to be dedicated to doing this work. So that's, I think, a question this committee needs to talk about a little bit. [LR444]

SENATOR DAVIS: Five, you mean, Martha? [LR444]

MARTHA CARTER: Five, yep, sorry. [LR444]

SENATOR HARMS: What's your thoughts? Can we deal with the TRAIN? We had that discussion afterwards and that's a pretty heavy program. Can we get to that and understand it and be able to incorporate it into our analysis and review? And would that then take a special person on that side to be able to do that? Because it's not a simple

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

deal. [LR444]

SENATOR SCHUMACHER: One thing one you talk about models, you know, you have real models and then theoretical models. And I mean the best model is one seeing what somebody has done and whether it's worked or not. What are...what are our avenues of finding out what's bombed in other states and what's worked really well in other states? [LR444]

SENATOR HARMS: Well, I think we know the TRAIN would work. Unless I'm wrong here, but I think for the discussion I've had, I think we understand the TRAIN would work. [LR444]

SENATOR DAVIS: The CSG or NCSL, I have that information at home. [LR444]

SENATOR HARMS: But it's going to have to be brought under... [LR444]

MARTHA CARTER: Are you talking about in terms of what tax incentive proposals work and don't work? [LR444]

SENATOR SCHUMACHER: Right. Right, yeah. [LR444]

MARTHA CARTER: I think probably our best resource right now is the Pew Charitable Trust. I think they're the ones who have got the most information on that. I think we do have access to that kind of information. [LR444]

SENATOR DAVIS: But what we're talking about here is whether we need to by some software. [LR444]

SENATOR SCHUMACHER: Software? [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

MARTHA CARTER: Right. Would be like if you wanted to do the kinds of...what would the outcomes be if you eliminated corporate income tax compared to what the benefits of this particular tax incentive program, that kind of proposal. [LR444]

SENATOR DUBAS: So we need to be able to do that modeling within....within the committee, within your staff. [LR444]

MARTHA CARTER: Well, either...I'm not sure that's the best place in the Audit Office. But it's...if you want that, that's going to either need to be, I think, some kind of a relationship with a consultant who does that or...I don't...the Pew folks that originally said we could develop that internal expertise, the office could partner with the Department of Revenue or the office could partner with the university or consulting firm. There have been some suggestions that perhaps the Fiscal Office would consider it, but I don't want Mike to throw anything at me. So that would be another option. [LR444]

SENATOR DUBAS: (Laugh) He's keeping a pretty close eye on us here. [LR444]

SENATOR SCHUMACHER: Well, don't wait...once we do the model, don't we go to Mike and ask if it was right? [LR444]

MIKE CALVERT: For what? [LR444]

SENATOR MELLO: I think...I think we've got multiple options on that...on the measuring the impact with or without economic models component. I think right now the TRAIN program is housed in the Department of Revenue. And I think it's a question in the sense of identifying, maybe it's an information request to Commissioner Conroy to find out, one, what would be the availability for Performance...for this new...this select committee...or this venture to be able to get access to the TRAIN model in regards to building some economic modeling as part of the report that's done every year or every other or every two years as the big Nebraska Advantage component. That's something

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

that's already there now. It's already being...the state...we're already paying for it in the Department of Revenue's budget. I think that would be, in my mind, I think the first logical choice would be find out what their availability is. Because if we're able...if this select committee is able to put together, based off the recommendations and kind of sign off on what the recommendations are from the audit staff who's doing this of saying here's what we need economic models to look like or what we need to be put into the economic model, the TRAIN model, and see what gets spit out. I mean I think it's simply a matter of getting that information to the Department of Revenue in well enough time that they can run that model based on the assumptions that we want to incorporate. In talking with Mike Calvert, the Fiscal Analyst, there are other options too. I mean, we could purchase modeling software as well. The Legislative Council could purchase a contract to do that. There are outfits and companies that provide that kind of off-the-shelf economic modeling. I, generally, would kind of lean more towards TRAIN though just because it's something that we currently produce our tax incentive report on. The tax burden study also utilizes the TRAIN model. And those are two existing reports that seem to produce fairly, I think, fairly respectable data, at least. I mean, people may not always agree with what's in it, but it's got science behind it in regards to how to measure economic impact and different scenarios, as what Martha was talking about. And if that's an avenue, I think that would be the...probably the preferred. [LR444]

SENATOR HARMS: Paul, has the Revenue Committee at all ever used TRAIN for any of its data or research, your Revenue Committee? [LR444]

SENATOR SCHUMACHER: No, not...but at the same time, it would sure be handy to have a good explanation of what that thing does, what's its input, what's its assumptions that are in it, because you can make anything come out of anything depending on how you sent the thing up. And you know, and it's easy to say, you know, well, the TRAIN model is great when you haven't the foggiest idea what you're talking about. And I think if we're going to talk TRAIN model or any other model, before we talk we should have at least some guru who understands it explain what we're talking about. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DUBAS: Would there be any issue with making sure we have access to that? You know, would the Department of Revenue say, you know, the Legislature, if you want to do this, you need to have your own? [LR444]

SENATOR MELLO: You know what, I think it's always...sometimes it's a polite reminder that we have to remind other entities of state government that, one, the legislative branch is a coequal branch of government that is the branch that drafts laws, passes laws, and appropriates money. And I think if it's an issue where an agency chooses not or wishes not to provide access to something that is money has been appropriated by the Legislature, I think it's in the Legislature's prerogative to ensure that they have access to that technology if we want. [LR444]

SENATOR DUBAS: I would totally agree with you. [LR444]

SENATOR MELLO: So if that's a law change or if that's a separate line item appropriation to cover part of the cost to be able to run, you know, to run the scenarios that we need and that has to come out of the Legislative Council's budget and money needs to be appropriated, I would prefer to hear more from Martha. And I know Mike has kind of given me some background on the TRAIN concept and its history a little bit. I'd defer to them as being more of the experts right now and that model and what could be possible scenarios for us to get our...for the committee to be able to utilize that on a more regular basis as it relates to these reports and these evaluations. [LR444]

SENATOR HARMS: Well, I think we have two choices. The first choice, of course, would be TRAIN, if we have access to that, or economic modeling from another source. So if we write this to a point where...if we find out that it would be easier, like Paul said, what do we know what's in TRAIN and what do we know what we're going to get. If we have to, we would still have the ability to go to another economic model, that might help us with that issue. So if we kind of look at that, I don't know if we'll have enough time to

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

be able to really get into that. We could have someone come in and talk to us or talk to the staff about what's in that. I know Mike has had some experience with TRAIN and we know it's pretty complicated, but I think you get your results. So I think we just make sure that these are the two things we're looking at--economic modeling through another source with software or the TRAIN--are the two we've got. So as we continue down through this discussion, we decided how we're going to...what committee is going to deal with this, decided on the number of years. Now, we're trying to decide on the data and how do we get the data and how do we know it's correct. Those are the two options. Am I wrong? I think those are the two options we have. [LR444]

SENATOR MELLO: Would it be helpful....would it be helpful to see if Martha, I'm sure, can get some historical information or some legislative history on the creation of the TRAIN model. I'm looking over here because I know where it's at. [LR444]

MIKE CALVERT: I've got a box full of it. [LR444]

SENATOR MELLO: ...but simply being able to get some historical information to provide to the committee here to understand. I think Paul's point is very true, which is most of these models are kind of black box components that, you know, you can create a black box to spit out whatever it is you want when it comes to economic modeling to some extent. And so finding out what's actually in the model...TRAIN model, the history behind it, how it's used, I think that would be generally just a good educational background for the committee right now. [LR444]

MARTHA CARTER: And my only caveat on that would be, I would be happy to look into the history of it and tell you more about that, but if you really want to understand what goes into that and how it comes out, you need to have one of the economists who works with that model come talk to you, because I'm not trained that way. I'm not going to be able to answer any more than just very surface questions about how that works. So if you really want, you know, nuts and bolts, how does that modeling work, you need

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

to talk to the folks who are... [LR444]

SENATOR MELLO: Could we have them come in? [LR444]

SENATOR DAVIS: I think that would be helpful. [LR444]

SENATOR HARMS: Sure. Let's just have them come in. [LR444]

SENATOR SCHUMACHER: Yeah. And we should spend some time on this because once you establish the modeling, you then begin to either have faith or no faith in it. And if we're looking at continual rapid turnover in the Legislature, you know, the turnover in the Governor's Office, you know, just like right now, whichever way the Governor's race comes out is dramatic policy differences on a lot of these topics. And unless you have some benchmarks or anchors that you can say, okay, you know we...in good faith before the politics of the present crisis entered into it, we figured out that this is a good standard. Like the two months' revenue for the rainy day fund, that's a pretty good standard and it's a presumptive standard unless it's really proved wrong. And we should be able to say this so that, as people come and go, here is the experience staff has had with it; this is where this thing has...predictability has gone right and this is where it's weak. Here's...you know, and, you know, how we get filter, fabricate, whatever, this information becomes a critical component of whoever happens to be sitting in the hot seat at the moment to push the button. [LR444]

SENATOR DUBAS: This is very foundational, very. [LR444]

SENATOR MELLO: Uh-huh. Absolutely, absolutely. [LR444]

SENATOR HARMS: Yeah. And we've built our schedule, like I talked this morning to you about, out in November. If we have to, we could delay into November to make our final decision. But we'll bring them in, in October, have them do a complete...and we

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

agree upon all the other things, and this is the only other thing we're going to have left, then we can deal with that whole issue. But I think Paul is absolutely correct. So let's go ahead and have them scheduled to come in and visit with us to maybe explain it to us. And if there any other chance to...that we could also look at what other sources of economic modeling we might have other than just the TRAIN. Michael, you might have some ideas. We could use your resources and help us think through that, whether it might be available so we all...look at the TRAIN issue and we could also then talk about other economic modeling. So we're not just looking at one and we get down to the end and say, you know, this is not going to work for us but we have another economic model that we could use. Are we kind of agreeable with that? [LR444]

SENATOR MELLO: Uh-huh. [LR444]

SENATOR HARMS: Okay, let's move to the next one. Martha. [LR444]

MARTHA CARTER: So the last...the key issues that Pew identified, number six was "Ensuring evaluations inform of the policymaking process." But I think, given the decision you've made about how you want to proceed with the committee structure, I think you've answered that. That...because having that kind of subcommittee would ensure of that. So I think that's all you need to do with that handout. And then we turn to the goals and metrics handout. [LR444]

SENATOR MELLO: I just want to...I agree, generally, with the underlying statement in number six which is having some kind of requirement that, whatever is presented or done by this select committee would...there would be a public hearing that would be presented to the Revenue Committee. I, generally, am a fan of that... [LR444]

SENATOR HARMS: I agree with you. [LR444]

SENATOR MELLO: ...in the sense of it makes it, one, more public; it makes it so that

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

people...it doesn't just get put on the shelf, so to speak; that there is some public acknowledgment and accountability with the report that has been produced in regards to any recommendations may come from it. So that would my lone caveat,... [LR444]

SENATOR HARMS: I would agree. [LR444]

SENATOR MELLO: ...is making sure there is a public hearing held with...on behalf...for the Revenue Committee where this would be presented, this information annually, or whenever the reports are done, is presented. [LR444]

SENATOR HARMS: It's just to make sure we're transparent. [LR444]

SENATOR MELLO: Uh-huh. [LR444]

MARTHA CARTER: That just made me think of Senator Schumacher's concern earlier about who would be making recommendations, and that in most states their evaluation or audit committees don't make recommendations that are incorporated into the actual evaluation and audit report like ours are. Most states, the report is released and then the committee makes recommendations. This might be an instance in which that's a better model, that we would do the audit report and it would be released...I mean, the committee would see it first, but there could be a briefing to the Revenue Committee and then decisions could be made about recommendations. I just toss it out as an alternative to the... [LR444]

SENATOR HARMS: I just want to make sure that whatever we do that we...the Revenue Committee feels comfortable with where we are, because we are not going to...you can do whatever you want when I'm gone, but we're not going to infringe upon those committee Chairs. I just...that's a kiss of death. [LR444]

SENATOR DUBAS: It is, that just opens up... [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: It just is. And we went that whole thing about planning. And we've stayed true to planning. We never infringed upon them at all, just informed them, asked for their advice and move on. So as long as you don't do that, you'll get along fine. But if you start crowding them, you're going to have a problem. [LR444]

SENATOR SCHUMACHER: The other thing is in any of this I think we should think about is the sharing of this information among the body in general. That Legislative Council meeting like that we might have, I assume that's going to go on,... [LR444]

SENATOR MELLO: Uh-huh. Yeah. [LR444]

SENATOR SCHUMACHER: ...a two- or three-day affair down the road, that's a chance to, for a controversial issue like this, to introduce the new membership, who's always going to be substantial in number, to the issues. [LR444]

SENATOR MELLO: Um-hum. [LR444]

SENATOR HARMS: I agree. [LR444]

SENATOR DAVIS: I think that's a good idea, Paul. I had the same thought, that that would be a great place to present the data. [LR444]

SENATOR SCHUMACHER: Just, hey, this is an issue. And here's how the issue stacks up and here's why we know what we're talking about and why we don't. And same angle on TEEOSA and some of these other things because those are all big issues and you got 20 new people showing up at the door and, you know, they've got to know where the... [LR444]

SENATOR DAVIS: Who don't know much about any of that. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: Okay. [LR444]

SENATOR SCHUMACHER: TEEOSA is not coffee. [LR444]

SENATOR HARMS: Any other discussion on this particular topic where we're at now? Are you okay about leaving this now and moving to the next? You feel comfortable with where we are? Okay, Martha. [LR444]

MARTHA CARTER: So your second document is the goals and metrics update. And what we tried to do here was condense the information from a variety of sources. The goals, as you'll recall, are the three broad goals that Pew identified from existing legislative history and statutory language. The metrics are the ones that this committee has selected from the initial, sort of, laundry list that Pew provided. We subsequently had two public hearings. So the staff compiled what we understood the metric language to be, what we understood your interest to be, any specific hearing comments on the individual metrics, although there were not a lot of those. Most people at the hearings didn't talk specifically to individual metrics. And then the most recent...so Pew reviewed all of that, and then they've added comments to those. So I don't know if you want me to go through these individually or how you would like to proceed. [LR444]

SENATOR HARMS: Well, I'd like to have us pose what the question would be and then those high points of the things we think we want to include into that. I'm assuming that everybody has read this. And so it's how many full-time jobs did the company create and so forth. Is that what we want? And if it is, then how do we want to identify...how do we want to identify that? Pew talks about how many jobs were created over a time period. So what would that time period be? Are we talking three years? Five years? Eight years? Ten years? And then they talked about direct and indirect jobs and induced jobs and, you know, what has it done to other companies? I don't know whether you could even measure some of that. I don't even know if that data is available. But we

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

can surely get to the issue about new jobs. And we can surely get to that...to the issue of...over what period of time we would like to have identified. Would that answer then the goal that we want to measure here? I'm just throwing this out. I don't have any feelings about it. I'm just trying to get us to move. [LR444]

MARTHA CARTER: And a couple of just additional pieces of information on that: What we know about the Advantage Act is you cannot do accurate job creation calculations on an annual basis, because companies have several years to qualify. So, ideally, with any of these measurements, what you would have to do is wait until a company had completed the whole process. That's when you'd have all the information. That could be, you know, 15 years, conceivably. Is it possible at some point, some midpoint, like when they do qualify as having created the jobs, to look at that? Maybe, but I guess my caution is just we're not going to be able to do that on an annual basis for the big Advantage Act program. The other thing in terms of the calculating the direct and indirect and induced jobs, I went back and read through the information that the Pew folks had presented when Bob was here the first time and he went through slides with us about making plausible estimates. So in this area about how many direct and indirect jobs, you may not be counting exactly the number of indirect jobs, for example. But he laid out a methodology that day that would allow you to take what companies report is their new jobs, do some reasonable estimates of what's going on in the economy and some of those other kinds of things, and come up with a plausible estimate of which...what proportion of those jobs were likely created due to the incentive. So it's not necessarily that we're saying there would be a precise answer to this, but you would get in the realm of what's reasonable or plausible. That's my best guess. [LR444]

SENATOR HARMS: What are your thoughts? [LR444]

SENATOR SCHUMACHER: Well, on new jobs, I think if there was somebody who knew how to write, and there surely should be, a decent query of what information the Department of Revenue has to have on file already, we could get one ton of information.

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

They know the employer ID numbers of the people getting incentives. So you say to your computer--generate a file with everybody employed by this employer ID. And then you know the Social Security number of every employee. You know their wage. You go say to the computer, generate the matching employer IDs and wages for the last three years for this employee. Did the wages go up? How many, you know, jobs were taken away from them that were already employed in Nebraska? And that data has got to be there and it can't be terribly hard to pull out of there. And I think you can get a terrific picture of how productive this is very minimally. Does 75 percent of the people come from a former employer? What do you gain? Do you gain 10 percent by going to work for an Advantage company that you didn't have before? We're at full employment. The idea that we're going to change demographics and bring tons and tons of people into the state using Advantage probably is not there. What we need to do is figure out are these jobs becoming either more benefits, more wages? You know, what are we actually producing by this? Because the idea that...try hiring somebody in Columbus, Nebraska. There's nobody...very few people that are available to work. And so we're at full employment. That's a different animal than if you were sitting at 6 percent unemployment. [LR444]

SENATOR DAVIS: Huge. [LR444]

SENATOR HARMS: So, go ahead. What's (inaudible). [LR444]

MARTHA CARTER: So I think one of the challenges is going to be that, to the extent that that information exists, it probably does not exist in one single agency. So one of the things that we're going to have to pursue is what kind of statutory change would be required, for example, to allow the Department of Labor to share information with the Department of Revenue, those kinds of things. [LR444]

SENATOR SCHUMACHER: For what I just described, that has to all be over at Revenue. If I were Mitt Romney, I'd bet \$10,000 that with the right programmer, with the

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

right keyboard over there, you could produce it in a very short period of time. I mean, it just can't be hard. They've got all that stuff digitized. They've got your W-2 information, all that. You know, you can generate a terrific thing, but you know, 90 percent of the employees got a 10 percent raise as a result of Advantage--that's a number that...that's a known number--or as a result of being employed by an Advantage company. [LR444]

SENATOR DAVIS: You know, Labor is going to be where you have to go for unemployment data. [LR444]

SENATOR SCHUMACHER: For unemployment. But we aren't...at this point, we don't care about unemployment data. [LR444]

SENATOR DAVIS: Wasn't one of the questions, how many people took unemployment? [LR444]

SENATOR SCHUMACHER: Oh, okay. (Inaudible). You're right. [LR444]

SENATOR MELLO: I think that's one of the next metrics though. [LR444]

SENATOR SCHUMACHER: You're right on that. [LR444]

SENATOR MELLO: The bigger, I guess, the bigger policy question, Martha, that you pose is we would probably, for some of these metrics, we may have to have some kind of statutory language that would be included in the general concept here that would require different state agencies, upon a request from the Performance Audit staff or committee, that they would have to be willing to share data. I mean, is that generally kind of what you're... [LR444]

MARTHA CARTER: Yes. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR MELLO: Which doesn't seem...I mean, that seems pretty reasonable because most of the data will be in Department of Revenue, but it will also be in Department of Labor will be the other main... [LR444]

SENATOR HARMS: The other thing we'll have to look at is whether or not we have the system that allows us to transfer it, the computer, a system that will handle the requests that we're going to be making. [LR444]

SENATOR MELLO: I guess, generally, I like the suggested metric language. I'm fine with that. [LR444]

SENATOR HARMS: Yeah, (inaudible). Any other thoughts? We incorporate your ideas and...okay. We'll move on. [LR444]

MARTHA CARTER: Speaking... [LR444]

SENATOR DAVIS: Can I get back to one question? Is there...the first metrics language: How many new full-time jobs did the incentivized company pay...generate? Well, I think it would be really helpful, as the guy from Hastings...or from Kearney suggested, that we know how many good paying jobs we really have, rather than what we heard this morning was the mean being \$23,000...or that being the minimum to be incentivized, which I think he said is \$11.00 an hour--hardly what I think was the intent when the bills were put in place. [LR444]

SENATOR HARMS: And that's what the Omaha Chamber recommended to us too. You know, we want jobs, but we want good paying jobs. And the question was asked, what is good paying? Sixty thousand and above. So I guess that's something we have to maybe take into consideration. Are we, in fact, actually benefitting the public or are we not? [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DAVIS: Right. Well, it's...and if we're at structural unemployment,... [LR444]

SENATOR HARMS: Yeah. Sure. [LR444]

SENATOR DAVIS: ...why are we doing this? [LR444]

SENATOR HARMS: Yeah. Okay. Any other questions? Martha, you feel okay with that? [LR444]

MARTHA CARTER: Yep. [LR444]

SENATOR HARMS: Okay. Let's go on. [LR444]

MARTHA CARTER: So, the second metric has to do with percentage of workers hired to incentivize jobs who filed unemployment claims over the next two years. And that one definitely would require some data sharing. [LR444]

SENATOR MELLO: I'm good with it, the suggested metric language I should say. I'm good with that language. [LR444]

SENATOR SCHUMACHER: Over this next two years, does this mean once you're hired by an incentivized company, do you file an unemployment claim within two years? Is that what this question is? [LR444]

MARTHA CARTER: That's what I would understand it to be. But if that...is that not what you had in mind? [LR444]

SENATOR MELLO: I think I...I would think, Paul, I think it was if you had filed an unemployment claim within the past two years and were hired by an incentivized company. I believe the thought was, understanding was the hiring of unemployed

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

workers in Nebraska by incentivized companies is the way I interpreted the language.  
[LR444]

MARTHA CARTER: That's not the way I understood it. I mean that's fine if that's what...  
[LR444]

SENATOR DUBAS: Yeah, that's not the way I understood it. [LR444]

SENATOR SCHUMACHER: Well, read that first line. [LR444]

MARTHA CARTER: Right. [LR444]

SENATOR SCHUMACHER: It almost reads reverse than that. [LR444]

MARTHA CARTER: And that was what I understood it to be, was the reverse of that,  
was that you wanted to know were people staying in the jobs. [LR444]

SENATOR MELLO: Oh, okay. [LR444]

SENATOR DUBAS: Yeah. [LR444]

SENATOR MELLO: Okay. Okay. I'm just reading it wrong then. [LR444]

MARTHA CARTER: Not that the other isn't a good question too, but... [LR444]

SENATOR DUBAS: Yeah, that's how I read it. [LR444]

SENATOR DAVIS: Both questions would be nice to know. [LR444]

SENATOR MELLO: I completely looked at it another way, but I understand. It's fine still.

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

[LR444]

SENATOR HARMS: Yeah, this is one of the places where you're going to have to have either the law or an agreement that Department of Labor and Revenue are going to have to sign to allow this transfer to take place. I think I read that somewhere in there.

[LR444]

MARTHA CARTER: Yep. [LR444]

SENATOR HARMS: So, anything else you'd like to discuss on this? Feel comfortable? Okay, let's move on. [LR444]

MARTHA CARTER: Metric 3 is the cost per job. And this is another one that we know cannot be calculated on an annual basis for the Advantage Act. And I'm just keeping it very simple. The jobs don't have to be created in a single year. Benefits are earned and used not in a single year. So you don't have on, an annual basis, an exact match-up between the jobs created and the benefits earned or the benefits used. So again, ideal scenario analysiswise is you wait until the very end of the agreement when the company has met all of its obligations and has used all of the benefits it's going to use. Then you know exactly how much things cost. That's not very satisfying from a policy perspective because it's a long time. So whether or not we could find something that was in an interim with some data and some reasonable estimates, for example, if you at the point that a company has met its obligations, so you know it's created the jobs and it's made the investments. They have earned a certain amount of benefits, may not have used them. Could you at that point make some reasonable estimates about what was going to be used? For example, with the tax credits you could say they've earned this much, so if they use them all at 100 percent, that would be your cost. Or more likely, if you...if they used 70 percent, that's what the cost would be. I mean, those are possibilities we would like to pursue. But what we can say for sure is doing it on an annual basis is unworkable. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: Any comments? [LR444]

SENATOR SCHUMACHER: The cost per job thing, and I looked through here to see if there was an offsetting one someplace, somewhere in order to make that a good judgment, we've got to be able to try to project what the revenue per job was generated at and just not look at the cost side. And if you've got to wait for each individual company and say, okay, on an individual basis, it's going to take a long time, statistically there should be enough of a population in the system at any time that it's kind of like depreciation. You know, you can predict it even though you don't know what particular thing you're depreciating exactly. You can see that this...this is how the pattern is over time and be able to make some statistical guesstimate on cost. But somewhere in this number, if it's not buried in another one of these, we need what's the revenue. Because if it costs you \$25,000 to generate a job, but somehow you showed a ripple effect of \$50,000 on the other side of the coin, it was a good deal. But if the ripple effect was \$5,000, maybe it wasn't so good a deal. [LR444]

SENATOR HARMS: Okay. Any other thoughts? [LR444]

SENATOR DAVIS: Wouldn't it be helpful if we could identify cost per job per sector? Is that kind of what your objective is? [LR444]

MARTHA CARTER: That would be ideal. [LR444]

SENATOR DAVIS: You know, if we found that one incentivized program had a low cost per job and a high return, there was another industry that was not doing that, then we can restructure the legislation to remove the ones that aren't accomplishing it. [LR444]

SENATOR HARMS: Okay, Martha, review with us where we are on this particular (inaudible). I'm sure I'm on the same sheet of music here. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DAVIS: Pardon me? Pardon me, Senator? [LR444]

SENATOR HARMS: I'm just talking to Martha to review, I'm sorry, where we are on this particular cost per job. [LR444]

MARTHA CARTER: The ideal, I think, is what Senator Davis is suggesting, it would be great to be able to figure out what the cost per job is in different industries. And you could make...that could inform policymaking in terms of what you were trying to incent. And to Senator Schumacher's point, I think there will be a point where there's enough history with the program that you could make some reasonable assumptions. I'm not sure that we're there yet. I'm not sure... [LR444]

SENATOR SCHUMACHER: Is somewhere on the legislative staff a really good statistical guru who understands parametric and non-parametric and correlations and regressions and all that happy stuff... [LR444]

MARTHA CARTER: No. [LR444]

SENATOR SCHUMACHER: ...to be able to...? We don't have anybody like that. [LR444]

MARTHA CARTER: No. [LR444]

SENATOR SCHUMACHER: Then let's go to the university and find somebody. I mean, we...that's the kind of stuff you need to make a good corporate decision. You need to be able to say, here's the data we got, it looks like a bunch of mishmash, but is there any way statistically you can start plugging this into a formula, into a...you know, how big a sample do we need to get good numbers and to get our confidence levels up? I mean, if we don't have that on staff, then we...you know, you're just...we're just playing in the

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

dark. [LR444]

SENATOR HARMS: Well, I think we can move in that direction. But we're going to have to...remember, we have kind of a short window to go through. [LR444]

SENATOR SCHUMACHER: Well, and we can't do it between now and... [LR444]

SENATOR HARMS: Yeah. No. I know. [LR444]

SENATOR SCHUMACHER: ...but, my gosh, if they... [LR444]

SENATOR HARMS: But it's where we're going to have to go. [LR444]

SENATOR SCHUMACHER: ...if the Legislature of the state of Nebraska doesn't have direct access to a really good statistical guru when it's dealing with appropriations, taxes, and business planning, then...I mean, we're flying with goggles on and a, you know, looking down below to see which way the wind is blowing instead of with GPS. [LR444]

SENATOR HARMS: Well, it's a...I think it's a topic that we could surely talk to Dr. John Bartle and Jerry Deichert of the University of Nebraska-Omaha, because the Planning Committee uses those folks. They have access to everybody in the university. They could find them for us. [LR444]

SENATOR SCHUMACHER: Put them on the payroll. [LR444]

SENATOR HARMS: Martha, you ready to go on then? Okay. [LR444]

MARTHA CARTER: Metric 4 is job creation of firms receiving incentives compared to job creation under alternate policies. That would be the issue we discussed earlier of

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

using economic modeling to give you some reasonable estimates of what different kinds of investments would be like. [LR444]

SENATOR HARMS: Any thoughts? [LR444]

SENATOR DAVIS: I think it looks good. [LR444]

SENATOR HARMS: Don't think I...I don't know, maybe this is kind of picky, but I just want to know what "alternative policy" means. [LR444]

SENATOR DUBAS: I was just going to say, how defined does that have to be? [LR444]

SENATOR HARMS: How do you...yeah, you better define that, because that's a point of contention. I want to really cause us some heartaches, I'd just picked that out and say, oh, start showing what you're talking about. It's not defined. And one of the things that Pew has said to us--make sure you define accurately exactly what you're talking about so there's no misunderstandings. I don't know, that's my views. What are your thoughts? [LR444]

MARTHA CARTER: I think, ultimately,...I mean we...we did not, as staff, include alternative policies because I think that has to be decided. [LR444]

SENATOR DUBAS: Policy decision. [LR444]

MARTHA CARTER: Yeah, that's a policy decision. Either one option would be you could identify some now that you think might be logical things that you would want to know or that could be the decision of the subcommittee that we talked about earlier. [LR444]

SENATOR DUBAS: I think by putting something in there now... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: You're better off. [LR444]

SENATOR DUBAS: ...kind of sets a direction and gives, you know, and then certainly in the upcoming session they can refine that. But I think leaving it as open-ended as it is right now, it just...it's just not...it just leads to too many unanswered questions. [LR444]

SENATOR HARMS: Gives them the opportunity...well, it gives you the opportunity to get picked on. [LR444]

SENATOR DUBAS: Yeah. Yeah. So I think by putting some things in there at least sets a direction. [LR444]

MARTHA CARTER: Well, the two that I can recall the committee asking questions about are elimination of the corporate income tax and there was also a question about TEEOSA and how...I'm not sure exactly how you would phrase that. If there were additional investment in education, I mean, is that what the gist of that one would be? I'm not advocating those. I'm just saying those are two examples that I remember having come up. [LR444]

SENATOR DUBAS: Those are some things that have already been discussed. [LR444]

SENATOR SCHUMACHER: Well, can this question be even more basic--job creation firms receiving versus those not? That's a black-and-white thing. And when you look at like the Advantage program, the million dollars and ten employees, you've eliminated the bulk of the job creators, I think, in the state. I mean, at least outside of Omaha and Lincoln, a million dollars invested in a business and ten jobs, there are very few small business people who employ ten people. But there are a whole lot of small business people who employ three. [LR444]

SENATOR DUBAS: But isn't what this is looking at is a comparison of what we have in

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

place now versus what other alternatives could be... [LR444]

SENATOR SCHUMACHER: Yeah. [LR444]

SENATOR DUBAS: ...that would be as effective or more? Is that what we're looking for here compared to job creation under alternative? So we're looking for a comparison. [LR444]

MARTHA CARTER: But it's your choice. I mean... [LR444]

SENATOR DUBAS: But we're looking for a comparison basically. [LR444]

MARTHA CARTER: This is more of a comparison. But there's nothing...this is...you know, this is just what discussion has been up till now. [LR444]

SENATOR DUBAS: So Paul's comparison is an incentivized program versus no incentive at all. [LR444]

SENATOR SCHUMACHER: Right. [LR444]

SENATOR DUBAS: And this is saying an incentivized program or other types of incentives, other types of policies. [LR444]

SENATOR SCHUMACHER: I mean,... [LR444]

SENATOR DAVIS: I like the idea of that. I'm not...I'm wondering can that may be more of a data problem than you think? [LR444]

SENATOR SCHUMACHER: Well, that's a...you know, what data you actually need to put the...some formula to generate that, I don't know off the top of my head here, but...

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

[LR444]

SENATOR DAVIS: I mean, because we've got a defined group that's receiving these incentives. We don't have that other defined group. [LR444]

SENATOR SCHUMACHER: Right. But we know what the others...the state is as a whole, how much job creation in the state as a whole. And then we have how much job creation in the defined group minus the job loss from the state as a whole because they're just churning people. [LR444]

SENATOR HARMS: Well, what would you like to... [LR444]

SENATOR DAVIS: It would be helpful...it would be very useful information if it was accurate and complete. [LR444]

SENATOR HARMS: What's your pleasure? What would you like to direct our staff to? [LR444]

SENATOR DUBAS: Well, I personally would like to see us put some specific alternative, like you mentioned, you know, eliminating the corporate income tax. [LR444]

SENATOR HARMS: Yeah, I don't disagree with that. It takes away that guessing game. [LR444]

SENATOR DUBAS: I think it just takes away that gray. [LR444]

SENATOR HARMS: Yeah. Are we...feel comfortable with just the suggested metric language? [LR444]

SENATOR DAVIS: I am. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: Okay. All right. Anything else? [LR444]

SENATOR SCHUMACHER: Well, like the corporate income tax, I think when this originally came up in that hearing, you know, instead of...would \$100 million in tax credits, do you get more bang for that than you do at \$100 million in increase in TEEOSA, you know, those kind of things, or \$100 million in four-lane roads, not that that would build very much four-lane road? But, you know, where do you get the bang for the buck? And then... [LR444]

SENATOR DAVIS: And you know, in this one, the suggestion was funding for the state education system. That was the alternative. [LR444]

SENATOR HARMS: If you feel comfortable, we'll go to the next metric then. [LR444]

SENATOR DAVIS: I'm comfortable. [LR444]

SENATOR HARMS: Paul? Senator Dubas...Annette? [LR444]

SENATOR DUBAS: Yes. [LR444]

SENATOR HARMS: Okay. All right. [LR444]

MARTHA CARTER: Metric 5 is increase in business investment. I think to some extent we have that. That's something that's reported already for the Advantage Act. [LR444]

SENATOR HARMS: Any thoughts about that? We're on Metric 5, Senator Mello. [LR444]

SENATOR MELLO: Okay. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: We're about to move on to six. Okay, 6...Metric 6. [LR444]

MARTHA CARTER: Six would be comparing average wages. So the average wages that incentivized companies, are they higher or lower than the average wages of all jobs in the county or counties in which the incentivized company's project was located and compared to all state jobs in the same industry? [LR444]

SENATOR SCHUMACHER: "Average" is a poor word, as we saw this morning. [LR444]

MARTHA CARTER: Yep. [LR444]

SENATOR SCHUMACHER: I mean, you've got to have some way to modify that to take off the high ends and the low ends or something, because, you know, you can generate a high average with one guy, whether "median" or some other standard that...again, a statistical guru would be helpful. [LR444]

SENATOR DAVIS: The other thing that's wrong with that is are they leaving benefits out? We're leaving off a big chunk. [LR444]

SENATOR MELLO: Are you thinking like Metric 7 though that deals with the health benefits or are you thinking more all encompassing? [LR444]

SENATOR DAVIS: Well, I'm just thinking about 40 counties out there where a lot of people work on the farm and they get fuel to get back and forth and they get beef and they get these benefits that are not taxed. So if you've got a \$10 an hour job, it looks like you're making more, so the data is going show, oh yeah, that's really working out there, when, in fact, I don't think it probably is. But I don't know how you do that. That's not reportable. It's not a... [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR MELLO: Generally though, I...the suggested metric language, with the exception of trying to identify, maybe, a better word than "average," is there general consensus around that of trying to compare the wages if they were higher or lower at incentivized companies in comparison to where the industry is in that county, if possible? I mean is that...Paul, I get your...I mean I...looking if there's a way that Martha and the staff can figure out other options languagewise or median or... [LR444]

SENATOR DUBAS: Than just an average. Uh-huh. [LR444]

SENATOR DAVIS: Could you...could you... [LR444]

SENATOR SCHUMACHER: I'd say wage distribution, you know, if that's what you're looking at. [LR444]

MARTHA CARTER: Right. Because the range makes a big difference. [LR444]

SENATOR DAVIS: That would be good, or could you mean, median, and mode it so that you got all three to look at? [LR444]

MARTA CARTER: Right. [LR444]

SENATOR SCHUMACHER: Which would be covered by distribution, because then you couldn't play with the numbers. [LR444]

SENATOR MELLO: Okay. So wage distribution kind of? [LR444]

SENATOR SCHUMACHER: Right. Wage distribution of incentivized...employees of incentivized companies versus the general economy. [LR444]

SENATOR MELLO: Any other thoughts? Martha. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

MARTHA CARTER: Number seven, dollars per hour in health benefits at incentivized companies, this is information that is not currently required to be reported by participating companies. So this would probably be a statutory requirement...new statutory requirement. [LR444]

SENATOR DUBAS: And are there other benefits besides just health that we would want to bring in to that? I know that opens a pretty wide range of benefits, but is health really the leading indicator or should we be including other things? [LR444]

SENATOR MELLO: From my time...or from our time on the LB690 task force right now, the Aging Nebraskans Task Force, retirement savings is a much larger issue that's going to be facing the state moving forward. So I...I generally am...I generally am okay with the suggested language. I would be intrigued though, I mean the health insurance component is important, but as much as anything else, ensuring that retirement savings is somewhere in the mix also. I mean that's an added policy issue there. But I just pose that, I'll jump in. I mean that's something that I wouldn't be surprised if our separate committee will issue a report exploring that a little bit too. [LR444]

SENATOR DUBAS: I mean this is pretty much the general benefit that everybody thinks about right out of the gate. [LR444]

SENATOR MELLO: Yeah. I think the retirement is the other one, that's why. Usually it's health and retirement is I think the two main benefits that... [LR444]

SENATOR DUBAS: But those are pretty important benefits that can really... [LR444]

SENATOR MELLO: Pretty important benefits that good companies offer. [LR444]

SENATOR DUBAS: Um-hum. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: You mean how much...how many dollars the company puts to a savings program? [LR444]

SENATOR MELLO: Put to retire...like whether it's a 401(k), an IRA, whatever it might be, defined contribution plan, as well as your health insurance. I mean... [LR444]

SENATOR DUBAS: I mean those are things that really make a difference down the line into the future, if you've got people who are... [LR444]

SENATOR MELLO: Yeah. [LR444]

SENATOR DUBAS: ...have those kinds of benefits. [LR444]

SENATOR SCHUMACHER: And you've got nonmonetary things--12 weeks' maternity leave. Benefit or not, is it worth anything? I mean what...how do you integrate those things? [LR444]

SENATOR MELLO: Oh, it's worth it. [LR444]

\_\_\_\_\_: Yes, it is. (Laughter) [LR444]

SENATOR DAVIS: Maybe we don't monetize the value of those, but we at least need to know what benefits you're given. I mean your retirement you can, but, you know, some people have health savings accounts, some people have other things, so. [LR444]

SENATOR MELLO: Uh-huh. Yeah, you're right. I mean...I shouldn't use the word "health insurance" but "health benefits," because then some employers provide a health savings account and fund that as a better option instead of providing insurance. It all just kind of depends on the scenario. But I generally am fine with the language. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DAVIS: A broader definition would be...I think, and I agree, retirement is (inaudible). [LR444]

SENATOR MELLO: Broader definition with that and retirement somewhere in there. [LR444]

MARTHA CARTER: So, essentially, the question becomes for the jobs that are created under the incentive program, what are the health benefits provided by the company and what are the retirement benefits provided by the company? [LR444]

SENATOR MELLO: And dollars per hour? [LR444]

SENATOR DAVIS: And then can you ask for other benefits to be named but not monetized? [LR444]

MARTHA CARTER: And so for those you're thinking about things like maternity leave or... [LR444]

SENATOR DAVIS: Maternity leave, trips to Acapulco, fuel, you know, those kind of things, utilities. In the ag sector that would be a factor. [LR444]

SENATOR HARMS: Any other discussion on that? Okay, Martha. [LR444]

MARTHA CARTER: So Metric 8, the ratio of revenue the state collects to the cost of the incentives, so essentially the tax revenue foregone compared to the total benefit in tax revenue. [LR444]

SENATOR HARMS: Any suggestions, if you agree with the statement? [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: You know, these are all great questions, but how do you even go about trying to figuring out what an answer is? You got all the ripple effects. And the primary question--would it have happened anyway? And to me that's...how do we really intend for that question to be answered? What mechanism are we going to have to answer that question? [LR444]

SENATOR HARMS: So what are your thoughts? Heath. [LR444]

SENATOR MELLO: I'm going to have to leave. Is that a problem? [LR444]

SENATOR DUBAS: Yes. [LR444]

SENATOR HARMS: You're always a problem. (Laugh) No. [LR444]

SENATOR MELLO: I always...you know I am. [LR444]

SENATOR DAVIS: How close to done are we? [LR444]

MARTHA CARTER: Halfway. [LR444]

SENATOR HARMS: We're about...we're close to being done. [LR444]

MARTHA CARTER: Halfway. [LR444]

SENATOR MELLO: I've reviewed this. I asked...I knew I was going to have to leave early today and so that's why I asked Martha if I could look at this, asked for a copy. And she e-mailed it to our offices earlier in the week because I knew I wouldn't get it from my staff, probably, until I came down. I've looked at all the model suggested language. I'm good with all of it for the most part, might...couple changes on this I made on the retirement component was my big one. So from a sense of...for next month's

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

meeting, our consensus or changes, I'm good with the suggested language. [LR444]

SENATOR HARMS: What are your thoughts about Metric 8? [LR444]

SENATOR MELLO: You know, I think Paul's...I think to some extent some of this information is already there. I mean, I hate to say it, but if you look at the TRAIN model that's on the tax incentive report, it shows, for an example, the LB...and we mentioned this last year at Appropriations and Revenue Committee hearing, like the LB775 program won't have paid for itself under the TRAIN model until like 2021. After the program had ended and all the incentives were done, then it showed that there was positive revenue gain based off the TRAIN model. So, I mean, that model is there and it kind of calculates it in regards to foregone revenue, through credits in comparison to revenue that would be generated, or at least that's...at least based on the TRAIN model. And I understand there are people who have disagreements with that concept. But that's kind of already being done now in the report. So I don't really have near of a problem with this because I think this metric is already there in the existing report. It's just...it's not really spelled out that way. You've kind of got to look at the...you got to look at the TRAIN analysis to kind of determine that. But I...because it's already there, I don't have a problem having it more self-explanatory instead of having to have a...someone have to dig through that report to kind of find out how it works. [LR444]

SENATOR SCHUMACHER: Do you know if those values are adjusted to present value? In other words, the money that's...you lose money in the head end. Or are they plugged in? [LR444]

SENATOR DUBAS: There's head shaking going on back there. [LR444]

MARTHA CARTER: Look at Mike... [LR444]

SENATOR MELLO: I don't know. I'm looking at Mike. I just know the way the TRAIN

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

model the way it showed is that it... [LR444]

MIKE CALVERT: I think you're referring to this table of the report that shows the accrued liability. [LR444]

SENATOR MELLO: Yes. Yes. [LR444]

MIKE CALVERT: The short answer from what I read, the material, it is not discounted. [LR444]

SENATOR SCHUMACHER: So if it was adjusted, would we move the payoff date farther out or closer in? [LR444]

MIKE CALVERT: I don't know. You see, you're going to hit that the flows are uneven year by year, and then the projection that's in, and I'm looking at the annual report from the Department of Revenue, it's a ten-year-ahead view and it's, what I would say, is an attempt at a real-world assessment of how the flows are going to occur. They're not discounted, so I don't have...and again, the flows are uneven year by year, so I can't answer your question directly. But it's going to be something different, no question. [LR444]

SENATOR SCHUMACHER: See all those things, you know, we're in a fog here. This is a tough job. [LR444]

SENATOR MELLO: I think with this particular metric though, I would say that it's going to be based off of...you get this answer through your economic modeling though more than anything else. [LR444]

SENATOR HARMS: Yeah, I agree. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR MELLO: I mean, that's not something that you simply can be...can use to simply arrive at an answer through looking at Department of Revenue and Department of Labor data the way that a lot of...a lot of the other metrics are a little bit easier I'd say, a little bit easier metrics to analyze. This is one that is purely going to be based on more economic modeling than anything else. And so I...it seems like we're already doing that now. And the question just is, do we want to continue to do that in a different way? So...which I'm fine with that. I mean, the devil is in the details, don't get me wrong, but we're kind of already doing that metric now. [LR444]

SENATOR HARMS: Okay. Thank you very much. [LR444]

SENATOR MELLO: Thank you. [LR444]

SENATOR HARMS: Have a safe trip. [LR444]

SENATOR MELLO: Thank you. [LR444]

SENATOR HARMS: You're welcome. Any other questions or thoughts? Okay, Martha, Metric 9. [LR444]

MARTHA CARTER: Number nine, cost of administering the incentives, so that would be some of what we heard this morning from Department of Revenue in terms of staff costs. We added a question about whether there shall also be an attempt to calculate how much it costs applicants. That's an issue that's come up. [LR444]

SENATOR SCHUMACHER: Well, that's certainly a cost, and probably for the lower-end tiers, a fair deterrent to even getting involved with it. [LR444]

SENATOR DUBAS: Well, does that bring in the question you were asking this morning about hiring an attorney? [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: Yeah. Right. All that. [LR444]

SENATOR DUBAS: All of those... [LR444]

SENATOR SCHUMACHER: And, you know, they keep...I mean, from one perspective, the department is doing a good job because they're looking up one side, down the other, and every which angle. But if you were a business person and was going to hire ten people and invest a million dollars, you'd have to think really, really hard whether or not it would be worth it to involve yourself in that system. I mean, maybe UP can do it because they've got lots and lots of personnel and the big datacenters. But, boy, at the lower end of that, ah jeez, you've got enough headaches the way it is running a business. [LR444]

SENATOR DAVIS: That's why you don't have very many small entities in... [LR444]

SENATOR SCHUMACHER: Right, right. [LR444]

SENATOR DUBAS: Well, yeah, I think that speaks to the fact if you've got a program that's so complicated that it costs so much just to apply for it, then what are you losing...or what are you gaining? [LR444]

SENATOR DAVIS: And yet small business is supposed to be the engine of economic opportunity. [LR444]

SENATOR DUBAS: Um-hum. Or you look at something like the angel investment which appears to be a pretty simple, straightforward application that, you know,...I think that...I think those costs need to be brought into the... [LR444]

SENATOR HARMS: So are we comfortable with where we are here at this point? Can

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

we see the rewrite? [LR444]

SENATOR DAVIS: I think so. [LR444]

SENATOR SCHUMACHER: I think so. I...particularly we...we know that "cost" means also the cost to the taxpayer. [LR444]

SENATOR HARMS: Okay, Martha. [LR444]

MARTHA CARTER: So those were all the metric or, I'm sorry, the Goal 1 metrics. Goal 2, revitalize rural areas and other distressed areas: so the first question is job creation in distressed areas of the state. As we heard this morning, for most of these programs, most of the state is defined as distressed. And we've asked Research to help us out with that a little bit and take the definitions and see if they can make maps for us so we'll have those to show that graphically. But one of the challenges because of that is that it's going to be hard to compare distressed with nondistressed because you don't have very many that are nondistressed. [LR444]

SENATOR HARMS: Any comments? Paul, I know you're thinking. [LR444]

SENATOR SCHUMACHER: Yeah, I'm thinking because this whole idea that somehow...and it's the same stuff as in Planning Committee. You know, what do you do when the natural trend is toward depopulation? And let's say you create a job in a distressed area. Well, how do you figure in the cost then that you're going to have to somehow figure out education for the kids created by that job and roads and...you know, I don't have...I mean, I kind of agree we got to go this kind of statistical thing, but this overlays with a much bigger problem. [LR444]

SENATOR DUBAS: And you're looking at a distressed area in Omaha versus a distressed area in western Nebraska. They're very different. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: Yeah, right. [LR444]

SENATOR DUBAS: We're looking at very, very different issues and what you need to do to stimulate the economy and the...like he said, the population. So if the majority of our state is distressed, but yet it's still a diversity of distress...(laughter) [LR444]

SENATOR SCHUMACHER: That's a good one--diverse distress. [LR444]

SENATOR DUBAS: I don't know if that made sense or not. But what are we hoping to gain by looking at this particular goal? [LR444]

MARTHA CARTER: Well, Pew suggested, basically, that there might be a policy question in there in terms of does it really...my words, not theirs, does it really make sense that your definitions defined almost the whole state as distressed? Because if that's your definition, then really are you talking about distressed areas or are you talking about something that is a statewide benefit? So if you want it to be statewide, that's one kind of goal. And if you want it to be distressed, do you want to consider whether there are narrower ways to target to distressed areas? [LR444]

SENATOR HARMS: I don't know, when I think about that, I think about distressed, there's a lot of difference between rural America distress than there is in urban. You know, what we see on a regular basis, it's just much more difficult to be able to move that portion of our state forward. I think it's...somehow we have to find a way to be able to measure this. Because I think that our hope for rural Nebraska has to be to revitalize it. We already know that some of the counties it may be too late. I'm not being negative, but when we look at all the data that we see on the Planning Committee, we know that some of these will not, probably, survive it as we know historically in the past. So those that are still...have potential, we need to find a way to revitalize them and be able to maybe change how they think about themselves and be able to look at whether we can

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

attract companies or some type of business or entrepreneurial development. Rural Nebraska is great for that. You know, but I just don't know, somehow we have got to find a way to start that revitalization of rural, because the problems are going to be, in the future, just staggering. [LR444]

SENATOR DAVIS: I'm guessing when these programs were put in place, everybody wanted to be on board and everybody wanted a share in this. So we drew this map, which was so broad it really has no meaning, and we exempted, what did we hear this morning, 4 out of 52. [LR444]

SENATOR DUBAS: Um-hum. [LR444]

SENATOR DAVIS: So in the future, future Legislatures need to construct that map much more restrictively and incentivize the areas that need to be incentivized, and let the people that are good be good. [LR444]

SENATOR DUBAS: Well, I think going back to what Paul said about, you know, okay, you have a distressed area in the Omaha or Lincoln area versus a distressed area in western Nebraska. [LR444]

SENATOR DAVIS: That's different than it is where we're from. [LR444]

SENATOR DUBAS: And you get a job with 50 employees in Omaha, Omaha is going to be able to handle that influx of families much better than a small town in western Nebraska. And is the scale tipped more towards the distressed areas that are higher populated versus those that aren't? And so if we're making the whole state distressed, that still puts the rural parts of the state... [LR444]

SENATOR DAVIS: At a disadvantage. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DUBAS: ...at a disadvantage. [LR444]

SENATOR HARMS: I guess your point is probably (inaudible), if you looked at it closely and go get the data, that's exactly what you'd find. It's tipped towards urban America. [LR444]

SENATOR DUBAS: And that's not to say that those parts in Omaha or Lincoln don't need that kind of revitalization, but...so do we in the more rural areas of the state. But if we have such...like you said, such a broad definition of what "distressed" is, to me the scale is tipped towards... [LR444]

SENATOR DAVIS: Well, it's no different than tax increment financing when you define a luxury hotel as a TIF project. [LR444]

SENATOR DUBAS: So again, I guess I come back to what will we get when we measure this. What are...what, through this goal, what are we... [LR444]

SENATOR HARMS: So what's the level of distress? [LR444]

SENATOR DUBAS: Yeah. [LR444]

SENATOR HARMS: Then that's what it boils down to. What level are we looking at? [LR444]

SENATOR DAVIS: So are we looking to try to redefine within this committee what tiers of distress and then see where the...where these jobs accrue to? I mean, because that's different from the language of...this language, but that would be more useful information. [LR444]

SENATOR HARMS: I think what you just said is more...it would be much more useful.

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

[LR444]

SENATOR SCHUMACHER: What we have, and it should be brought under the purview of this, the new markets tax credit thing from a couple of years ago, it had specific areas and...of, I think, by zip code in which they defined. You had to meet certain income levels. And supposedly, from what I hear tell, there's been a lot of applications under it. Whether that's good or bad, like all these things, you don't know. But that's generated a lot of activities in poor zip codes. And maybe that...whatever is in that system can integrate into this for the definition of distressed. Because that's a completely different definition of distressed, I think. [LR444]

SENATOR HARMS: I agree. So what are your thoughts? Where would you like to be on this one? [LR444]

SENATOR DAVIS: I agree with Pew. I think we need to set up some criteria in tiers of distress... [LR444]

SENATOR HARMS: I agree. [LR444]

SENATOR DAVIS: ...and then go that way for the future so that future Legislatures can say, well, this quarter of the state is really in bad shape; this is where the incentives ought to take place. [LR444]

SENATOR HARMS: I agree. [LR444]

MARTHA CARTER: So one way we could do that in terms of the way we've envisioned the report for this project coming out, is if we have those maps that show what the current definitions cover, and then if...either if there are other ideas about how...I mean, we could look at the new markets and see how they define it. There could be an appendix, I guess, is what I'm getting to that says, you know, here's the results of the

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

current definitions and this committee is recommending that those be reviewed, or something to that effect. [LR444]

SENATOR HARMS: Are we agreeable? Okay, Martha. [LR444]

MARTHA CARTER: So the next two have to do with education, whether or not the first one is in the state's distressed areas: the percentage of residents who have the necessary education to fill the jobs that are in the areas; and the second one is the portion of the incentivized jobs that do not require a bachelor's degree. [LR444]

SENATOR HARMS: I think we...I think that data is already available. It's pretty easy...in fact, I'm not so sure you won't find it with the Planning Committee documents because we've dealt with that. If not, Jerry Deichert or Dr. John Bartle can give that to you really clearly and quickly, because it is the key to what kind of businesses you might be able to attract or whether you can even move your community forward. Are you okay with that incentive? [LR444]

SENATOR DAVIS: I'm good with it. [LR444]

SENATOR HARMS: Okay, let's move forward then. [LR444]

MARTHA CARTER: Okay, so Goal 3 is diversify the state's economy and position Nebraska for the future by stimulating entrepreneurial, high-tech, and renewable energy firms. And Metric 13 would look at patents granted and patent applications filed. [LR444]

SENATOR DUBAS: Goes to a question, I think, Senator Mello asked this morning about including that. I think that's... [LR444]

SENATOR HARMS: Right. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DUBAS: Are patents the only thing we would...that you could use to measure? What else would a job or a company... [LR444]

MARTHA CARTER: The only other thing that I'm aware of which is...and it's not...I've not done a lot of research on this, but the Pew talked about the Iowa study that also looked at research spending and number of Ph.D. scientists and engineers. [LR444]

SENATOR SCHUMACHER: One index may also be, besides patents, is number of public stock offerings, or what do they call them, Reg D? [LR444]

SENATOR DAVIS: Private offerings. [LR444]

SENATOR SCHUMACHER: Private offerings to qualified investors. That's an indication of how much, you know, sophistication in your financial sector, which usually you would accompany some entrepreneurial sophistication in the technical sector. [LR444]

SENATOR DAVIS: I don't think patents is going to give us anything all that much that's that helpful. I think we need more than that. I like your idea. [LR444]

SENATOR SCHUMACHER: Patents are kind of an index... [LR444]

SENATOR DUBAS: I think it should be expanded beyond just patents though. [LR444]

SENATOR DAVIS: Right. First of all, patents in place are going to be pretty much in Lincoln because that's where the university is. [LR444]

SENATOR HARMS: Okay, any other thoughts? Well, we can make that correction pretty easily. [LR444]

SENATOR DAVIS: So expand that (inaudible). [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR HARMS: Yep. Okay, Martha. [LR444]

MARTHA CARTER: Number 14, whether the incentivized companies are receiving financing from other sources as a result of the incentives. [LR444]

SENATOR HARMS: I think that's good. Personally, I like it. Any other thoughts? [LR444]

SENATOR DAVIS: So we talked this morning a little bit with Greg Ibach about the ag incentives that come from FSA that these would be listed then as part of that. And Small Business Administration and Farmers Home and that sort of...all that stuff would play into this. [LR444]

SENATOR HARMS: Yep. Okay. [LR444]

MARTHA CARTER: Number 15, business survival rates, so do companies that receive incentives remain in business longer than companies that do not? [LR444]

SENATOR DAVIS: How are you going to evaluate that? [LR444]

SENATOR SCHUMACHER: One of the criticisms, I think, and maybe it's been fixed, but it was still in existence a year ago with the Advantage Act was by the time the company was in position to actually start getting the benefits, its fate already had been determined in the state. It was either making it or it didn't make it. And so what the incentive payment was, was basically a bonus. Rather than helping them through the...they didn't get it up-front, and which is a good thing and a bad thing. But, nevertheless, you know, it was either going to survive or it was going to die before it ever saw the check. And so the survival rate...and then if it merges with somebody else, is it survived? [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

MARTHA CARTER: There would be some real complexity to answering it. [LR444]

SENATOR SCHUMACHER: I mean it would be good to know, but how do you know it? [LR444]

SENATOR HARMS: What are your thoughts? Do you think it's important to include or not? [LR444]

SENATOR SCHUMACHER: I suppose it could be easy enough to determine if it had access to that computer. You run the people who have gotten incentives and see if their employer IDs are still active. You get some index. [LR444]

MARTHA CARTER: What you don't know, and this is one of the things that the department suggested to us, is if a small business has a strategy of being around for a couple of years and then being bought out, well...just the numbers alone don't tell you that. It's going to look like a negative--they went out of business, but that was their plan all along. [LR444]

SENATOR SCHUMACHER: But if when they went out of business, the jobs moved out to Silicon Valley, well, they went out of business as far as we're concerned. (Laugh) [LR444]

SENATOR DAVIS: Are there other things that you could look at--credit ratings, Dun and Bradstreet ratings, those kind of things--as a comparative tool? [LR444]

MARTHA CARTER: In terms of... [LR444]

FRAN CASSELL: I can (inaudible). [LR444]

MARTHA CARTER: Okay. Please, Fran. [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

FRAN CASSELL: (Inaudible) answer that question. [LR444]

MARTHA CARTER: Come up so you're on a mike, please. [LR444]

FRAN CASSELL: We looked at a couple of state examples and one the things that...one state that I looked at, and I have no idea which one it was, was they looked at just press and said in terms, because we were talking about the buyout strategies, what kind of press do they get? What is their...on the Web pages and that seems like a really simple answer, but it sort of Occam's razor--the easiest answer available. They would produce something if they're going to get bought out or if they're going to go out of business. [LR444]

SENATOR HARMS: Okay. So what is your pleasure then? Do you want to keep it in or... [LR444]

SENATOR DAVIS: Well, I think I'd like to keep it in. I just wish we could broaden it a little bit so we would have a little more... [LR444]

SENATOR HARMS: Okay. Well, we can work on that. [LR444]

MARTHA CARTER: We certainly can. So by broaden it, what would you envision? [LR444]

SENATOR DAVIS: I just don't know how much information is available, you know, but credit worthiness, Dun and Bradstreet ratings, stock price if it's a publicly traded company. [LR444]

MARTHA CARTER: So other indicators of... [LR444]

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR DAVIS: Of economic vitality. [LR444]

MARTHA CARTER: Uh-huh. Okay. [LR444]

SENATOR HARMS: Okay, any other thoughts or comments? Seeing none, let's go ahead and move on. [LR444]

MARTHA CARTER: Number 16, percentage of angel investors who were new to the state. [LR444]

SENATOR DUBAS: I guess I need a point of clarification here. It was my understanding that only...this program was only available to those who lived in the state, but yet we had an investor from California, I think. So is the program just an in-state only investors and business only, or are investors from outside of the state allowed to participate? [LR444]

SENATOR DAVIS: And I think Heath thought that was somebody who they moved to California from Nebraska. [LR444]

SENATOR DUBAS: They were a resident, but they moved away. [LR444]

SENATOR DAVIS: So maybe were eligible at the time they lived here, residence changed (inaudible). [LR444]

SENATOR DUBAS: But then moved away, okay. [LR444]

SENATOR SCHUMACHER: Is that for sure? I mean, I've pored over that thing and...the actual statute, and it is most unclear. [LR444]

SENATOR DAVIS: He gave me a name; I just don't want it to be... [LR444]

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

SENATOR SCHUMACHER: But, you know, clearly the business has got to be in Nebraska. [LR444]

SENATOR DUBAS: In Nebraska. [LR444]

SENATOR DAVIS: Right. [LR444]

SENATOR SCHUMACHER: But whether the investor has got to be a resident of Nebraska... [LR444]

SENATOR DUBAS: And I think the points you were raising this morning are questions that really need to be clarified if we've got out-of-state investors who are just looking to put some money here and then... [LR444]

SENATOR DAVIS: If they were an investor at the time they invested in it, they probably would qualify. And maybe they moved within a month and they changed the address, I don't know. [LR444]

SENATOR DUBAS: We just don't want to provide an avenue... [LR444]

SENATOR DAVIS: Absolutely not. [LR444]

SENATOR DUBAS: ...for out-of-state investors to use us as their incubator and then take our businesses and our money with them. [LR444]

SENATOR DAVIS: Absolutely not. [LR444]

SENATOR SCHUMACHER: That's just really not very clear. And I've tried to find the answer to that. And it's...because when you look at who a qualified investor is, it doesn't

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

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

say anything about being a resident of Nebraska. Now maybe there's some reg or rule or something that says that, but... [LR444]

MARTHA CARTER: I thought I had something here, but I don't. [LR444]

SENATOR SCHUMACHER: But it is just not clear. [LR444]

SENATOR DAVIS: We need to know that. [LR444]

SENATOR HARMS: Okay, are there any other suggestions or additions to that? [LR444]

MARTHA CARTER: So the committee's question is whether or not investors, at the time of making the investment, have to be from Nebraska. [LR444]

SENATOR SCHUMACHER: Residents. [LR444]

MARTHA CARTER: Okay. [LR444]

SENATOR HARMS: Okay, anything else? Okay, Martha. [LR444]

MARTHA CARTER: That's the extent of the metrics you'd identified. And then the rest, at the end of this document we had outlined for you...we...staff talked to the directors of the three agencies that you heard from this morning and discussed some technical difficulties which we're going to need to continue to look at. Some of those we just have discussed already in terms of the extent to which data is going to need to be shared among agencies and whether or not information systems are set up to do that. So there are some technical challenges. And we talked to the Pew folks about that. Their counsel was not to decide now, not to move ahead--let me say that better--to move ahead with the metrics you're interested in and keep looking into what is realistic and doable, but

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Transcriber's Office  
Rough Draft

LR444 Tax Incentive Evaluation Committee  
September 25, 2014

---

don't yet throw anything out until you're really certain that it can't be done. [LR444]

SENATOR HARMS: Okay, any other thoughts? Do you feel comfortable where we are now? [LR444]

SENATOR DUBAS: Um-hum. [LR444]

SENATOR HARMS: Okay. Well, when we come back in October, we'll have someone here to do TRAIN; maybe some...maybe someone else can show some...define and can do something else on economic modeling and should have everything before you. So...and if we have to...we've stuck November in there just for an emergency area for us, so if we have carryover until November, we can. So thank you for your attendance and participation. Have a nice weekend. Thank you. [LR444]