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The Committee on Appropriations and the Committee on Revenue met at 8:30 a.m. on Thursday, August 28, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, to hear the 2013 annual report on Nebraska tax incentives by the Nebraska Department of Revenue. Appropriations Committee Senators present: Heath Mello, Chairperson; John Harms, Vice Chairperson; Kate Bolz; Danielle Conrad, Bill Kintner; John Nelson; and John Wightman. Senators absent: Tyson Larson, and Jeremy Nordquist. Revenue Committee Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; and Kate Sullivan. Senators absent: Tom Hansen, Burke Harr, Charlie Janssen, Beau McCoy, and Pete Pirsch. Senators also present: Al Davis, Annette Dubas, Bob Krist, and Dan Watermeier.

SENATOR HADLEY: Well, I think...I appreciate people showing up. We'll go ahead and get started. Senator Kintner, we're getting ready to get started here. Hello, Senator. (Laugh) Thank you for being here. As you know, a few years ago the Legislature passed a statute where we asked for annual reports from the Department of Revenue on the incentive acts. And we've had, what, one or two I think we've...one, one previous so that we can have some dialogue with the Department of Revenue of what the actual results are for our tax incentives for the year. I think it last year was a great meeting and it will be this year, and it's a good way for us to keep a handle on what's happening. And this does tie into the LB444 Committee that we also have that is looking...chaired by Senator Harms, and we will also, right after this meeting, we'll have a ten-minute break and then we will start with the LB444 resolution...LR444. So with that, I would like to go around and introduce or have them introduce, my colleagues. I learned that way, that way when you stumble over names you don't embarrass yourself. So we'll start down here.

SENATOR HARMS: John Harms, represent the 48th District, Scottsbluff, Nebraska.

SENATOR KINTNER: Bill Kintner, Legislative District 2, which is about half of Sarpy County, Cass County, a little bit of Otoe County.

SENATOR WIGHTMAN: John Wightman, District 36, Dawson and Custer County and a small amount of Buffalo County.

SENATOR BOLZ: Senator Kate Bolz. I represent District 29 in south-central Lincoln.

SENATOR HADLEY: John, we're introducing ourselves.

SENATOR NELSON: John Nelson, District 6, central Omaha.

SENATOR HADLEY: Galen Hadley. I represent District 37, which is basically the part of Buffalo County, a little part of Buffalo County that John doesn't represent.

SENATOR MELLO: Heath Mello, District 5, south Omaha and parts of midtown.

SENATOR SULLIVAN: Kate Sullivan of Cedar Rapids. I represent District 41, a nine-county area in central Nebraska.

SENATOR SCHUMACHER: Paul Schumacher of Columbus. I represent Platte and parts of Colfax and Stanton Counties.

SENATOR HADLEY: Good. As you can recognize from the makeup of this...people that are here, is the Revenue Committee and the Appropriations Committee that hear this report, in essence, the people that decide where we get the money from, and the people that decide where we spend the money from. So it's a joint meeting with those. We're very happy to have Ms. Conroy, the Tax Commissioner, with us and this is her maiden voyage in doing this report. So, Kim, we'll turn it over to you. Quick question, would you like questions as you go along, or would you like us to hold them to the end?

KIM CONROY: I am fine with you asking them as we go along.

SENATOR HADLEY: Okay. So if you have questions, please just raise your hand and get my attention and we'll go from there. Kim.

KIM CONROY: (Exhibits 1, 2 and 3) Chairman Hadley, Chairman Mello, Chairman Harms for the LR444 Committee, my name is Kim Conroy, C-o-n-r-o-y. I'm the Tax Commissioner for the Nebraska Department of Revenue, here to present the 2013 annual report on Nebraska tax incentives. I have an outline that I'd like to go over of what we'll be talking about here. We'll talk about what the hearing require...the reporting requirements are of what we are supposed to be providing you with, and what we can provide publicly in the tax incentive report. We'll give you a summary up-front of some of the results of the program. I'll give you a general overview of the Nebraska Advantage Act itself and then we'll kind of try to dig into the Nebraska Advantage annual report itself a bit more. Then we have some other information that I'll go over with you from the Nebraska Advantage report. We're going to talk about the other incentive programs too, and they're listed there. Before I get started into this, though, I would like to introduce some people that are here with me and I'll start with Deepa Buss is the manager of our communications section. She's going to be ably assisting me with the computer. We are also hooked up to the Internet and at times it may be beneficial for me to actually go to our Web site to answer maybe some questions that you might have. So that's what Deepa will be assisting me with. Glen White, you want to raise your hand? Glen White is the director of our compliance division, so Glen has responsibility for areas such as audit and legal and collections. And sitting next to him is Mary Hugo, and Mary is the audit manager for the incentives group, the group that actually works and administers the tax incentive programs. And up front I have Garner Girthoffer who many of you know, and he's our legislative liaison in the policy section. On the joint hearing reporting requirements, we did the first report last year. This will be the second year of doing it. But we're required to on or before September 1, and we typically end up doing it right before September 1. We will appear at a joint hearing before the Revenue and Appropriations Committees and present the report on the Nebraska Advantage Act; Nebraska Advantage Rural Development Act; the Microenterprise Tax Credit Act; the Employment and Investment Growth Act, which we know as LB775; the Invest Nebraska Act; and the Quality Jobs Act. The program summary is to give you a snapshot of the different programs and what happened in 2013. We'll go through it in more detail but this just give you a snapshot. The Nebraska Advantage Act was the replacement for LB775. And we started taking applications on January 1, 2006, for that program, which meant that the LB775 program ended at that time. The program has different ends for certain tiers: one, three, and six. And last year the state cost, doesn't include property tax in there, was $113.8 million. Nebraska Advantage Rural Development Act is limited at $1 million. That's what we have for that program. Microenterprise tax Credit Act, we had $1.1 million in tax credits utilized. The cap on that program in any given year is $2 million. Nebraska Advantage Research and Development Act was at $2.4 million. LB775, we're still administering it and we'll still be administering it for several years, had a cost of $139.6 million. The Invest Nebraska Act was at $6.6 million. And we don't have enough companies to give you a cost on the Quality Jobs Act, to protect confidentiality, so that's why we cannot disclose what the cost of that program was to you. Wanted to try to do a graph to show you the usage of credits and the granting of sales and use tax refunds, and it's for both the programs LB775 and LB312. LB775 is in red up above and LB312 is the blue line. And since the program just started taking applications in 2006, it takes several years for people to attain their level. So that's why you see a flat line at the beginning there. And then it grows and drops down a bit and grows some more. For LB312, that's dependent upon we have a pretty small...we had a smaller group of applicants at the beginning so it's pretty much driven by which companies are receiving the credits or using the refunds in those beginning years. For LB775, we're going to see, if you had a trendline, it's going to be a trendline going downwards. It's not quite there yet, but we wanted to project out what we think may be happening. I know we had said last year that at a certain point in time the two are going to cross. The LB775 is going to be going down; LB312, as the newer program, though, will start growing more and more, and the two will switch. So if you look at the chart there, looks like that might be happening in 2015, maybe 2016, at least in terms of what our best estimate is. And then after that you'll see a steady decline of LB775 as it cycles out. Wanted to give...oh.

SENATOR HADLEY: Yes, Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Hadley. One quick question: Adding those two bigger programs together, it looks like the figure is a little over $200 million. How much of that is offsetting the corporate income tax? Do we know? Is most of that offsetting corporate income tax or is it personal taxes or...?

KIM CONROY: We have a chart; we can go through that later.

SENATOR SCHUMACHER: Okay. Thank you.

KIM CONROY: Most of it is corporate as compared to individual, though,...

SENATOR SCHUMACHER: Okay.

KIM CONROY: ...when you look at the credit usage that they've used for income taxes. But we'll...we can go through that on one of the charts in a bit more detail.

SENATOR SCHUMACHER: Thank you.

KIM CONROY: But that's a good question. Next, we're going to go to slide seven and we'll start in an overview of the program, the basics, and I think you all have a pamphlet in front of you. (Exhibit 3) It's the DED pamphlet and this is the most recent one here. So I think you all have this. I use this all the time. It's the best way, at a snapshot, of looking at all the tiers that we have. It also goes through all of the qualified business activities, gives you a snapshot of what the benefits are, what the time periods are. And it's just a great, great publication. There would be a few updates to it but not many. There's been some updates to the wage levels that we issued a Revenue ruling last fall on, and then you have the addition of the tier five renewable energy too, which would need to be on here. And some of the thresholds I think for the tier two large datacenter, that would be your third column over there, it went up to $201 million. And on tier six we moved from $109 million to $110 million. Those are just pretty basic differences that when this is updated that this chart will reflect. Just wanted to let you know those minor updates in there. But basically with this program and with LB775, if you meet the investment thresholds, if you meet the employment thresholds--those were two of the requirements--you're going to qualify to receive tax benefits. You do not qualify to receive any tax benefits until you do meet those thresholds, which is different than many states that we've seen. As you can see, the tax benefits depend on which tier you fall into, and there's some marked differences between tiers if you compared what you have for tier one to a tier six. But that is a good snapshot, as you take a look at the incentive programs, of what is available to taxpayers. What are the steps in the process? It sounds simple. Is it simple? Probably not. It's a pretty complicated program. If you want to apply for any of these tax incentives you have to...for most of them, and I'll say it's for the ones that are in the tiers, there's applications for them. Research and Development you don't have an application, per se. But for the tiered programs in here, all of them require, and Micro and Rural, require an application with the department, so you have to submit an application. The department has to take a look at that application and make a lot of determinations. Is it a prime...is it a qualifying business? Do you fit under these categories that are listed here, under these categories? If we determine that you do qualify here and it looks like you are going to be doing what you had said, we have 180 days now to do that. There was some recent legislative change that required that, and we started doing that this past fall. That 180 days, though, is tolled. If we have questions of a taxpayer, it stops the clock, the 180-day clock from running. Once they respond to us, the clock starts running again until, at 180 days, if the department doesn't make a determination, that application is deemed approved. We haven't had that happen.

We've been timely in getting out the applications that have been coming in within that 180-day period, although we did set up a system to where we are calculating when that 180 days is tolled or not. We then have to sign an agreement. The agreement is long, fairly complicated, and does look like a legal document. We have to sign that agreement within 180 days. What our practice has been now is once that application is approved to the taxpayer, at the same time we tell them that we will send them, for the most part, an agreement. So we aren't coming close to 180 days because once we approve the application, we send the taxpayer an agreement. Sometimes it takes them a while to get them back, but that's fine. There's no requirement that they do anything within 180 days. It's just to make sure the department is doing everything they can to get the agreement out to the taxpayer. Then the taxpayer has to attain, and when we use that word "attain," that means they have to meet those thresholds within a certain time period. Once they've done that, they need to contact the department. As you can see as we go through this report, there's a lot, a lot of taxpayers. They have to be the ones that determine that they've met their employment levels, that they've met their investment thresholds, and they want us to come out and do an audit. Once they do that and they notify us, we will schedule them for what we call a qualification audit and we will come out to ensure that they, at the basics--there's a lot of other things we have to look at--they've met the investment levels, they've met their employment levels. We have wage requirements we now have to look at and we also look at E-Verify. So there's several different things that we're going to look at when we go out and audit.

SENATOR HADLEY: Senator Mello.

SENATOR MELLO: Thank you, Senator Hadley. And thank you, Commissioner. I have a question regarding the steps in the process that we've raised before, we've discussed a little bit in our LR444 Committee, which is what happens when an entity withdraws their application? And is the sense that during that 180-day period, can any entity just say, we're going to withdraw our application at this moment in time and choose to submit it at a later date if we so choose? How does that work in regard to the process?

KIM CONROY: The applicant, the taxpayer, can withdraw an application at any time they choose. It doesn't do anything to them. Although if they want to submit a new one, it might mean it's a different base year for them than what their initial application had in there. And there's other somewhat complicating factors if they have existing applications too. But it's up to the taxpayer. If they want to withdraw that application, they can do that. They're free to do that. If they want to wait and file it again in another year, they can.

SENATOR MELLO: Uh-huh.

KIM CONROY: But they have to weigh all the risks of that, of a new base year, of hiring new people, or the investment that they have made up until that point in time then wouldn't qualify if they submit a new application to us.

SENATOR MELLO: They also...would they forfeit their application fee too? I assume that's...

KIM CONROY: Yes, they forfeit that application fee.

SENATOR MELLO: Okay. The question or reason I asked that question is when we hit recessionary periods like we went through, let's say, 2009 through 2011, are there any safeguards in statute and/or through the department that raises a red flag if an entity puts in an application to want to qualify for benefits and add 100 jobs? The recession hits. They decide they want to withdraw their application and lay off 100 people and simply wait a year then to file an application and rehire those 100 people back then to qualify for tax benefits and tax incentives, would be able to do that? Are there any safeguards in place? I couldn't find any in the statute and so I was wanting to see from the department's perspective how do we safeguard, I guess, that kind of potential loophole that can exist when the state hits recessionary times?

KIM CONROY: Yeah. No. Thank you, Senator. Their problem would be if they do it the next year, those employees are all base year employees, even though they would fire them and hire them back.

SENATOR MELLO: Uh-huh.

KIM CONROY: So they'd have a base year at 100. So even if they...they have to replenish all those base year employees before I can start counting new employees for them, so that would be the problem that they would face in doing that, plus that investment they have made for those 100 employees...

SENATOR MELLO: Uh-huh.

KIM CONROY: ...isn't going to count for them.

SENATOR MELLO: Uh-huh.

KIM CONROY: They're going to have to start over again and it's going to be...I mean if they're looking at 100-employee level, it's going to be real difficult for them to get to that.

SENATOR MELLO: If it was in the same year? I understand the difference in regards to different base years, but what if it happened all within the same year, January...?

KIM CONROY: If they had set their base year and then they started hiring employees and laying them off, they're going to have less hours for the year. It's real hard for them to...I mean it's going to be a new employee if they weren't in the base year.

SENATOR MELLO: Uh-huh.

KIM CONROY: But if they're trying to get to the 100 and they're laying people off and not paying them and, you know, their hours are shortened, they're going to have to have more people than 100 to make up for those if they're just a 20-hour-a-week person.

SENATOR MELLO: Maybe I'm...I think we're...I'm not fully understanding, I guess, kind of the explanation. And I'll give more of a specific example.

KIM CONROY: Okay.

SENATOR MELLO: An entity applies in January, puts an application in, says they're going to create 100 new positions.

KIM CONROY: Uh-huh.

SENATOR MELLO: They withdraw that application a month later and, in that time of withdrawing that application, lays off 100 employees.

KIM CONROY: Uh-huh.

SENATOR MELLO: Three months later they then put a new application in and say they're going to hire 100 new employees to qualify under whatever tier that is. How...what kind of...what processes are in place if that happens all within a condensed one-year period of...

KIM CONROY: Well,...

SENATOR MELLO: ...putting application in, withdrawing it, and putting a new one in within a time frame, I guess? That's...

KIM CONROY: When they filed in January, their base year is the prior year. And if they were, say...or if they were a completely new company, so I'm going to say they have a base year, they don't have any employees...

SENATOR MELLO: Okay.

KIM CONROY: ...so their base year is zero. And that's what's common with a company that's new and comes to the state, base year of zero, no employees in the state,...

SENATOR MELLO: Uh-huh. Uh-huh.

KIM CONROY: ...and they say they want to get to 100 employees. So they file that in January. Their base year is the previous year. Well, now if they come in, in March, and say, we messed up, we don't want our base year to be that previous year, and they withdraw that application...

SENATOR MELLO: Uh-huh.

KIM CONROY: ...and they file a new one, all those employees that were working for them are now base year employees...

SENATOR MELLO: Okay.

KIM CONROY: ...because they app. date is different now, I think. Well, no, I'd have to think this through. So they file in January. That creates a base year of the year before. They withdraw that one and file again in March. They still are going to have a base year...

SENATOR MELLO: So pick the...they still pick the same...let's say they can still pick the same base year though.

KIM CONROY: Right. Right. I don't know why they would do that because they're going to lose any of those hours the employees worked in January and February and not be able to use that, not being able to use in the count as...

SENATOR MELLO: And I use this in the context of the recession when we know employers are laying off employees.

KIM CONROY: But, right, but, see, they have a long time to attain.

SENATOR MELLO: Uh-huh.

KIM CONROY: So they still have a base year of zero if that's the situation. And they're going to have a long period of time to attain to get to the 100.

SENATOR MELLO: Those 100 positions, yeah.

KIM CONROY: So, I mean, even though there might be some...and we see that, even though there might be some cyclical like this at the beginning, and that's why we see a lot of the companies don't reach their employment levels until towards the end of the attainment period because it is natural for there to be some of this back and forth, and there can be in the attainment. They don't have to reach it all at once. So I just...I can't foresee a situation when someone would withdraw. I think what they typically do is they're going to keep it in place and see that...if things get better. There's no harm to them in doing that.

SENATOR MELLO: Okay.

KIM CONROY: I hope that answers the question.

SENATOR MELLO: Yeah. Thank you. I appreciate that.

KIM CONROY: Okay.

SENATOR HADLEY: Commissioner, I have a couple of quick questions on the qualification audit. I know I met with Commissioner Ewald a couple years ago because we had some concerns about the time period that it was taking for the qualification audit. Are these being done pretty expeditiously now, the audit, to see whether attainment has been made or not?

KIM CONROY: I believe they are.

SENATOR HADLEY: Okay.

KIM CONROY: We're very dependent upon the taxpayer letting us know, and the taxpayer needs to realize for us to have any type of audit schedule, we can't come in the day they ask us to do that.

SENATOR HADLEY: Sure.

KIM CONROY: There's going to be a several month or more...

SENATOR HADLEY: But we shouldn't be talking a year or two...

KIM CONROY: No. No.

SENATOR HADLEY: ...to...

KIM CONROY: If...the problem is sometimes if they want the property tax exemption is they are on a very strict time frame as to when we come in and say that they've met the levels if they want to qualify for the property tax exemption. So we do our best. We really...we really do fit them in and try to get those audits done so that they can qualify for the property tax exemption.

SENATOR HADLEY: Okay.

KIM CONROY: But I...we have a really good group of auditors that audit, do these qualification audits. They're some of our more experienced auditors, so they're able to go in, I believe, and do a good job. I will, though, say they can do it a lot faster when the taxpayer has good books and records. Now if the investment records are missing or if they don't have adequate employee records, it always slows down the process, just like with any audit. We will go out and do the audit. We encourage them to have...here's the information we need to come in and do the audit, and many of them do a great job. I'm not saying that. Some of them, we go in there and they have everything ready for us to go. But sometimes they don't and so we can't finish the audit until we get all of that information from them.

SENATOR HADLEY: Second question: In Kearney yesterday we had the LR444 and a comment was made in one of the testimonies that...this taxpayer had made the comment that I believe it was a machine that he had purchased that was going to meet the investment criteria, but it took him a while to, you know, meet the attainment period. And during that time, the machine wore out and they went out and bought another one. And the comment was made, but when the auditor came out I didn't have the machine so they told me that wouldn't qualify. That didn't seem to make sense to me. Does it? Do they physically have to have...?

KIM CONROY: Well, we're going to look at the books and records, and if we saw a disposal on there...

SENATOR HADLEY: Uh-huh.

KIM CONROY: ...then we're not showing an investment, I believe, at that point in time.

SENATOR HADLEY: Okay. What happens if they, you know, it could take 10 or 15 years, right, to...

KIM CONROY: Not for the attainment period.

SENATOR HADLEY: Not for the... []

KIM CONROY: Not for the attainment period. If you look on your chart, if he was in a tier two, they have up to seven years to attain.

SENATOR HADLEY: Okay, seven years.

KIM CONROY: Yeah.

SENATOR HADLEY: Okay. But what happens if they buy a machine that in five years they...no longer works?

KIM CONROY: Well, if it was depreciated out at that point in time,...

SENATOR HADLEY: Yeah.

KIM CONROY: ...that's different. But if they sold the machine...

SENATOR HADLEY: Okay.

KIM CONROY: ...that's a different story. I mean we're going to be looking at their depreciation schedules. We're going to see in the beginning years of the attainment period that, yes, they have an investment. Yeah.

SENATOR HADLEY: Okay. So they could.

KIM CONROY: Yeah. I mean he shouldn't...that shouldn't be causing him any problems. I'll double-check with our audit staff on that, but I think there's a difference when you've actually sold an investment that you made compared to depreciating it out.

SENATOR HADLEY: Versus...I got the assumption that this was kind of worn out or, you know, they...you know.

KIM CONROY: Well, that's different.

SENATOR HADLEY: That is different from just...

KIM CONROY: I mean if it had a five-year life and it was taking them seven years to attain,...

SENATOR HADLEY: Yeah.

KIM CONROY: ...I mean they made the investment. I mean we're going to see on their records that they have an investment, that they placed it in service during the attainment period. It's fine that it depreciates during that period of time.

SENATOR HADLEY: Okay. And one follow-up question: You mentioned that this is important because the taxpayer doesn't get the refunds until a qualification letter has been issued. Correct?

KIM CONROY: Right.

SENATOR HADLEY: And some other states do it differently, right? They in essence can give the refunds and such as that up-front and then later they do the audit.

KIM CONROY: Right.

SENATOR HADLEY: And then the problem is trying to get the money back...

KIM CONROY: If they've left the state.

SENATOR HADLEY: ...if they left the state.

KIM CONROY: Yeah.

SENATOR HADLEY: So ours is strictly basically a qualification system. They have to have done what they said they were going to do.

KIM CONROY: Right. And the refunds and the credits are all based on the amount of taxes they've paid...

SENATOR HADLEY: Okay.

KIM CONROY: ...or that they owe. So it's not...there's no money that goes to them beyond what they...for sales and use taxes. They've paid the sales tax. They've remitted use tax. If they're taking it as an income tax, they can take it as a payment on their corporate income tax liability. So if they owe $1 million for the year and we've come in and they have a qualification letter, they can then use, if they want, $1 million of those incentive tax credits to offset that liability on their corporate income tax return.

SENATOR HADLEY: Okay. Thank you.

KIM CONROY: Okay. Thank you.

SENATOR SULLIVAN: Senator Hadley.

SENATOR HADLEY: Oh, Senator.

SENATOR SULLIVAN: Yeah, thank you, Commissioner. Just to follow up on what Senator Hadley was talking about, you've got the requirement of the time line for the application and signing the agreement. And I understand that when...in terms of issuing the qualification letter and completing the audit, some of it depends on the taxpayer having the right information. However, there is no set deadline that that qualification audit has to be completed, is there right now?

KIM CONROY: There is to a certain extent. When I have a statute of limitations issue, unless they have signed an extension with us, they might run into some timing difficulties on being able to use the credits or being able to recoup those sales and use tax credits...I mean the refunds.

SENATOR SULLIVAN: Okay. All right.

KIM CONROY: And we let taxpayers know, to the extent we can, that they're running up against a statute of limitations issue on when we can issue them a refund or when they can use the credit. So they don't want to wait too long after they've qualified. I mean they really need to be doing it probably within two years, at a minimum, after they've qualified.

SENATOR SULLIVAN: Okay. But then also is there...there is no definite time line in terms of how long that qualification audit needs to be completed right now.

KIM CONROY: I'll have to clarify. You mean when the department completes the audit?

SENATOR SULLIVAN: Yes. Yes.

KIM CONROY: No, there's no time frame there but we keep inventories; we know where we're at. And if we're waiting for the taxpayer, our system will note that, that we've asked for information from the taxpayer and have not received it yet. And we do remind people at times, too. We try not to let things slip through the cracks for the taxpayers. But we cannot...you know, we're not there to hold everyone's hand through the entire process. A lot of it is dependent upon them pursuing this too.

SENATOR HADLEY: Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Hadley. Is part of the application process...does the department make any, you know, qualitative discussion, analysis of whether or not the business would come here anyway? And part of the issue that we're struggling with is how effective are these things, and it's real hard from our perspective to be able to know in any range of certainty whether they're working. Whether or not a business would come. You might have on one hand, all things being equal, our state and another state, and the only defining difference is that we impose a corporate tax of 7. something percent and the other state doesn't. Well, you're pretty sure in that situation that they're going to avoid Nebraska unless there's some type of a thing to reduce that corporate tax. At the same time, if a company were in need of "balonium" and the only place in the world "balonium" could be mined is Nebraska, then you're pretty sure that, regardless of the incentive, they're coming to Nebraska to mine "balonium". So is there somebody or some place where opinions or thoughts are collected saying, you know, this company would come here anyway and these things are just really a bonus?

KIM CONROY: It's a simple answer, Senator, and the answer is no.

SENATOR SCHUMACHER: Okay. All right.

KIM CONROY: (Laugh) I can't...I mean we follow the statutes that are in place right now and it doesn't have that in there. In fact, part of the intent language of this bill is to both attract new companies and to retain existing companies. So beyond that, there's no requirement that we have a "but for" test. One of these programs used to. LB829 had a "but for" test in it and I think there were a lot of issues with that when it was in place. And I recall some of the early ones with it, with trying to determine the "but for" test, fairly complicated thing for...and at that time it was a board that made that determination. But for an agency to make that determination, I think would be very difficult. So we make the determination, do you fit within one of these qualifying business activities, and sometimes that might be the hardest thing we do to where we do have to have a discussion of whether you fit one of these categories or not, or whether parts of you fit one of these categories or not and other parts of your business don't.

SENATOR SCHUMACHER: Would it be terribly onerous for us to, in a future statute, or would it even be workable, to ask the department to make a qualitative report, guesstimate, there's a, in this particular case, the company came but there was only, you know, a 70 percent chance they would have come without the...something so that we can say, look, all these companies or the great bulk of these companies would not be here, would not be investing here if it wasn't for the credit? I mean...

KIM CONROY: Well, Senator, I have good staff but I...that is a...that's a big task for someone to make a determination on. I mean, sure, I mean it would be based on what the company is providing us. But the inner workings of corporate decision making is not something an agency has a lot of insight into.

SENATOR SCHUMACHER: But we're sitting around this table charged with making that decision and we don't have the insight of being able to have somebody across the table, getting ready to sign an agreement, so we can quiz them. We don't even know who some of these people are. So if it's impossible at the level of the administrative agency, it's really, really, really hard here.

KIM CONROY: Yeah, I'm not saying it's impossible. I'm just saying based on some past history with LB829, I think it was found to be a fairly difficult thing to do. The Department of Revenue is good at the qualitative...or at the quantitative. We're good at, you know, here's the numbers and you did this and you did this and you did this, so we as an agency are good at doing that. I wanted to add one more thing. We are going to be doing a presentation before the LR444 Committee on the administration of the program, and I feel like I'm...and I won't discourage questions, but I'm just saying in September we are going to be...

SENATOR HARMS: The end of September, that's correct. []

KIM CONROY: ...doing that for Senator Harms. And I guess I would recommend maybe that some of the questions on the actual administration of the program, because I have lots of slides, that if you want to get through them, if we want to talk about this, that's up to you. But I do know we'll be visiting those issues before Senator Harms's committee in September.

SENATOR HADLEY: Thank you. We've been joined by two senators, if they want to introduce themselves.

SENATOR KRIST: Hi. Bob Krist from District 10 in Omaha.

SENATOR CONRAD: Hi. I'm Danielle Conrad.

SENATOR HADLEY: And, Danielle, you have a question?

SENATOR CONRAD: Yes, just to follow up on Senator Mello and Senator

Schumacher's line of questioning. In a more simplistic sense, though, we do have a sense of what taxpayers, what companies are utilizing the credits that are organic, that are here, versus that are new or out of state, right?

KIM CONROY: Uh-huh.

SENATOR CONRAD: Can you tell me just a rough maybe guess or estimate of kind of how that breaks down?

KIM CONROY: Senator, I don't know. I mean it's...

SENATOR CONRAD: Okay. I'm sure you could find that and follow up with us.

KIM CONROY: It would be...I mean any of us could take a look at all those companies that are in this report and I think, you know, you said, boy, I don't recognize some of the names of them. I mean that's probably true. Some of the names you recognize as companies that have been here for a long, long time. But we don't...when we do the reporting in here, and the reason I'm saying I don't know, it's not something that we're required to aggregate or report on. And we have to aggregate and report on so much that those things that we're not required to do, I don't. I don't tend to do that. Our database systems are set up to do this report for you. And with all the companies that we have out there, I don't...we don't have it set up to say, are you new to the state or have you been here 5 to 10 years or have you been here 20 years or more. So I don't really have that type of information.

SENATOR CONRAD: Uh-huh. But if the goal of the incentive program is for recruitment and retention purposes, it would be helpful, and probably discernible from the existing information that you're required to report on, to know how it's working for recruitment or retention purposes, and there would obviously be a distinction on that line. And I...the last point on Senator Schumacher's train of thought that I wanted to follow up with is that in regards to, you know, a "but for" test or some other sort of kind of objective analysis about the efficiency and effectiveness of these programs is one reason that it's difficult to quantify is because there's a lot of decisions in terms of recruitment and retention for businesses that are beyond tax incentive programs, that look to quality of life, that look to infrastructure, that look to whether or not "balonium" is available or some of those other intangible factors. But I mean that's obviously beyond the scope of your department but definitely a key consideration that we know that companies look at from site selection experts and otherwise.

KIM CONROY: Yeah. And, Senator, we see the companies that made the decision to come.

SENATOR CONRAD: Right.

KIM CONROY: And as I've said before, I don't know about or know the decisions that were made of the companies...

SENATOR CONRAD: Of course.

KIM CONROY: ...that were maybe looking at Nebraska and, for one of assorted reasons, decide not to come. But...so I see the companies that did decide to come or stay, and there's lots of them.

SENATOR CONRAD: Right. Okay.

SENATOR HADLEY: Thank you. Just a quick comment: I think Lieutenant Governor Lavon Heidemann, I think the "balonium" is all on his farm down there, at least I read that in the paper or something like that. (Laughter) Kim, go ahead, continue. Thank you.

KIM CONROY: Well, and I'll just add I don't think mining is a qualifying activity in here, Senator. Okay. Well, we've talked about issuing that qualification letter then, and then at that point they can start typically when the audit is done. We've done all that auditing on what their investment...what they've paid on sales and use tax has been, so those direct refunds of sales tax happen pretty simultaneously after the end of the qualification audit. And then we also establish the base of what their credits are. We'll talk a bit more about what those credits are in some later slides. Okay, slide ten.

SENATOR CONRAD: Just real quick, Galen. Are those costs included on this chart, the impact to state and local property tax and sales?

KIM CONROY: We have...we'll talk more about that in later charts.

SENATOR CONRAD: They're not on this chart. Okay.

KIM CONROY: That chart has state credits...

SENATOR CONRAD: Just state.

KIM CONROY: ...used and refunds received.

SENATOR CONRAD: Okay.

KIM CONROY: Yeah, not the property tax...

SENATOR CONRAD: Okay.

KIM CONROY: ...piece of it. An important part of the presentation is what can we disclose to you, to the public, to the press on the incentive companies in the program. We can provide a summary of investment, employment, and average compensation for projects that are subject to specific disclosure. We'll talk more about that when we get into the report. Keep in mind those are the companies you've been seeing where we report every two years. We aggregate the amount of those dollar amounts and then we take a look at what their investment and employment, so that piece is disclosed. We then, on project specific...and that's the second bullet that I talked about there. The signed agreements, you have...we have pages and pages in here on signed agreements for this year and then for the previous years for both LB312 and LB775. We give you what their location is, what their planned investment and employment was, and the year the agreement was signed. We'll look at investment, employment, and the average wage for those people if they have signed agreements with us, whether they're qualified or not. So these are ones that haven't qualified yet or not but they have a signed agreement with us. And then for projects that have actually qualified, they have that qualification letter there, we report in total. And then we're going to, in the report, you'll see we have industry breakout where we break the applicants into different industries and then let you know kind of by tier where that falls. So that gives you a good idea on that chart of what types of companies are using, what types of companies are using the certain tiers. To go for all this work that companies do to get these, what do they get? It's explained on this chart, too, from DED, but as I mentioned before, we call...what we call...we have our own terms of art at the department, and what we call a direct refund is under these tiers, except tier one, you get 50 percent. The other tiers you get a refund of sales and use tax you've paid on qualifying property that you're using at the project. You get an investment credit. Again, it's dependent upon which of these tiers you pick. So it can range from the 3 percent on the tier one up to 15 percent on tier six. The compensation credit range there also, depending on what type of compensation you're paying your employees. So it can range from 3 percent up to 10 percent. And then certain companies can receive a personal property tax exemption for certain types of property, not for all property, unless they're in tier six or if they have what we call tier two LDC. Any guesses on that? That's a tier two large datacenter, so that's what the LDC stands for, for them. But again, I'm going to say the DED brochure goes through all of those requirements for each tier in a great snapshot for you to look at.

SENATOR HADLEY: I believe Senator Bolz has a question.

SENATOR BOLZ: Yeah. One of my greatest interests is how our tax incentive programs are creating quality jobs, and so I'm curious to hear more about the compensation credit. Do you think that we have set the floor too low in providing compensation credit for jobs that are at 60 percent of the average wage? Do other states do this differently? Is there a way that we can better incentivize high quality, high paying jobs than we're currently doing now?

KIM CONROY: Okay. Thank you, Senator. What we find is that companies are not having a lot of difficulty in meeting the minimum to get to the 3 percent. We have a revenue ruling. We look at the...I think it's the producer price index every year for investment. We also then look at the average wages in Nebraska. Last year at the 3 percent level, I think that was $23,561 a year to qualify at that 60 percent, which is equivalent to like $11.33 an hour. It goes on up to the top level of tier six. Statewide is up at $58,902, so that's $28.32. I've had a similar question so I asked Mary's group to take a look at where does generally the most usage of the compensation credit fall. Most of the companies are getting within the...I'd say half of them at least are at the 5 and 6 percent. So that means that they're paying 100 to 125 percent of the Nebraska average wage. We have small amounts down in the lower ones. So most of the companies are up more in that 5 and 6 percent range, which tells me that they're paying...they're paying more than that minimum level that we have.

SENATOR BOLZ: Is there an advantage that I don't see to incentivizing the lower paying jobs? Is the bottom category valuable to us?

KIM CONROY: That one is a hard one for me to answer. The standards were set in place by lawmakers like you as to what they thought that should be, and we do index that every year. There's a lot of different types of jobs that these companies offer to people and, you know, whether it should be higher or not, I don't know if I can really answer that. But I think there's discussion about people at the...giving people at the bottom a chance to move up, you know, to grab a job like this. I mean I think there's certain benefits to that. So I can't really answer that. I mean if you want this just to be a program geared towards somebody that's making $58,000 a year, then that would be the requirements that you would put in place. But those were decisions I think that are decisions for you to discuss in terms of what you want this program to be like.

SENATOR BOLZ: Last question: Are there training requirements attached to the compensation credits?

KIM CONROY: No, there's no training requirements.

SENATOR BOLZ: Thank you.

KIM CONROY: Uh-huh.

SENATOR HADLEY: Just as a quick comment, Senator Bolz, I think those are great questions. And I know Senator Harms's LR444, one of the things that we're going to be looking at is, you know, are the thresholds and are they appropriate; have we done a good enough job of going back and reexamining these thresholds or did we put them in and just sit there for years and not decide whether they were appropriate, not appropriate, too high, too low, are they working, so.

KIM CONROY: And I'll, if I can add,...

SENATOR HADLEY: Yeah.

KIM CONROY: ...that was a change from LB775; didn't have any wage requirements in it. So when you...when LB312 was passed, that was one of the things added to it which was different. So it, you know, certainly would be, you know, you can always take a look at what those levels should be or what you would want them to be for the program at this point in time.

SENATOR HADLEY: Okay. Continue.

KIM CONROY: Okay. Well, I think I'd done with slide 11. Okay, now we're going to talk about the credits. This isn't the...I'm not talking about the direct sales and use tax refunds. we've already talked about them. But I'm talking about this bucket of money you get that are called credits. We talked about the investment credits that you get, and that's what you get on the qualifying property that you use at the project. You also get the compensation credits we talked about, dependent upon what the average wage...average salary is for your employees. So we establish the amount of those credits. Keep in mind that once you've attained levels and have the qualification level, during what we call your entitlement period you continue to earn investment credits on equipment that you purchase. You continue to use...earn compensation credits on those employees that are eligible for that. So what the qualification letter does, it sets what you have at that point in time and then that can increase. But then how do you use those credits? For both the investment credit, the investment tax credit, and the compensation credit, you can use those against either your corporate income tax liability or your individual income tax liability if it's been distributed to you as a shareholder member. You can also use that bucket of credits to get a refund of other sales and use taxes you've paid at the project. There's some other special rules for tier two and tier six, but for the most part, for tier two LDC, but for most of the tiers you can use those credits. You can monetize them by filing a refund claim with us. So this is on things that are not depreciable. Keep in mind, we have different taxes on other services, on utility bills, on paper you may be buying, office supplies. You cannot get a direct refund from us on those, but you can use these credits. You submit your invoices. It's a lot of work to do that, to accumulate invoices to show us the amount of sales and use taxes you've paid, but it is a way for companies to monetize their investment or compensation credits. They can also get a reimbursement of real property taxes. That's for the tier two large datacenter and tier six. They go ahead and they pay their property taxes just like they normally do. Then they would request a reimbursement from the state from the Nebraska Department of Revenue and we'd look at their credit balance. Do they have the credits there? If they did to cover that real property tax, we will reimburse them for the amount of real property taxes that they've paid. Now on the compensation credit only, we keep a separate bucket for it, the employers can use that to offset or refund the withholding, the income tax withholding that they are remitting on behalf of their employees, and that was a change from LB775 to allow the credits to be used against your income tax withholding liability. So that's how you use the credits.

SENATOR HADLEY: Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Hadley. On this compensation credit thing, so I'm working for one of these companies, let's say.

KIM CONROY: Uh-huh.

SENATOR SCHUMACHER: And I make $1,000 and they take the 6.84 percent out of my $1,000.

KIM CONROY: Uh-huh.

SENATOR SCHUMACHER: At that point, their corporate treasurer or whoever writes checks is holding that. That's my money yet because I'm going to be getting credit for it when I pay my income taxes. I'll be able to say I paid it in. And so the corporate treasurer then takes my money, that it's kind of holding in trust, and transfers it to the state. How is it that the company can take credit for my money?

KIM CONROY: On a form. What happens with withholding is...you're right. I mean if you're not an incentive company what happens is you do the...you do all kinds of withholding: federal, state, you know, the FICA. And then you remit it to the taxing agency.

SENATOR SCHUMACHER: Uh-huh.

KIM CONROY: So they do that. But on the form, we allow them, instead of sending it in, it's an offset. But it's our incentives group that's saying, you have the credits that you can use here, and they can do that. They keep that money then. It has no impact to you as the employee. They still send in all the information to us on the withholding. You still use that withholding when you come...when it comes time to do your 1040N with us. It's...to the employee, there's...it's the same as if you weren't an incentive company.

SENATOR SCHUMACHER: Right. But we do have an implication here because when they send my money in, my money is becoming the state's money because that's why it's going in. We've now got state money in the hopper and our constitution says we can't take money out of the state hopper unless we go through the appropriations process. I mean that never was my employer's money.

KIM CONROY: The statute is allowing it to be used as a measure for you to receive compensation credits back.

SENATOR SCHUMACHER: Thank you.

SENATOR HADLEY: Senator Krist.

SENATOR KRIST: I don't know, maybe you intend on covering this, but Senator Conrad and I were having kind of an off-line conversation. We've dealt with this, I think, the last few sessions where unannounced a municipality is losing tax revenue because a business applies for and gets credit for different categories, different buckets of money.

Why can't we communicate that to the municipalities, to the cities, to allow them a buffer? I mean they have a budget to keep as well. And now you're telling them that they're going to lose tax revenue or property tax revenue, whatever it might be, during that period of time. Why does it have to be so secret that we can't share that with decision makers at the local level?

KIM CONROY: Senator, there's been many, many changes made the past two years on the sales and use tax refund side of that. We have a lot of...they have a lot more up-front knowledge. And to explain what we do for the localities is beyond the scope of this meeting. We could certainly meet with you to explain what that process is. But it depends on the amount of the refund. It depends on the size of the city, how much they get in sales and use tax each year. But if it's big enough, it's going to get delayed out a year or more and then we parcel it. It's going to get delayed a year and then the state...I guess we front it for another 12 months to where we pay it back over another 12-month period, if it is a really large refund. So due to the legislative changes the past couple of years, there is a lot more up-front information to the cities on sales and use tax refunds that may come in the door. Pieces of it have been in effect. If you want to know more, we could certainly schedule a meeting with you on that. But I think Senator Hadley is aware of a lot of those changes that we've made quite a few in terms of notification to them. On the personal property tax side, I think it's pretty...they know who the companies are and that when they do use those personnel property tax exemptions, you're correct, they...the money doesn't come in. If it's on the real property, there's no impact to the localities on that because it's the state that's letting the company use their credits. And the state, in essence, sends a check to the company for that real property tax. It's not the localities that are paying for it. But there are a lot more notification procedures for localities now than what there used to be. But behind all of it are the very strict confidentiality provisions that we have to maintain the confidential information that companies provide the Nebraska Department of Revenue. Companies wouldn't be as willing to provide us the information they have to if they think that we are just going to turn over that information to a city official, so there's a lot of safeguards in place to make sure that we protect the confidentiality of the companies, at the same time allowing the cities to have some maneuvering room as they set their budgets. And I think the process that we've implemented over the past two years will assist them in doing that.

SENATOR KRIST: Okay. Thank you.

SENATOR HADLEY: Thank you. Senator Nelson.

SENATOR NELSON: Thank you, Senator Hadley. Thank you, Commissioner. You sign up a company, there's a contract, an agreement, and the incentives begin once they qualify. How long do these incentives keep running for an individual company. Do they go on forever?

KIM CONROY: No. No. If you look at this chart here again,...

SENATOR NELSON: Is there? All right.

KIM CONROY: Yep. Yep.

SENATOR NELSON: Okay. Well,...

KIM CONROY: So it's real...I mean when I say this is handy, this handy to use.

SENATOR NELSON: Okay.

KIM CONROY: When you look at the attainment period, it depends on which tier you're in. But I've said before, you have up to seven years to attain those levels.

SENATOR NELSON: All right.

KIM CONROY: Okay. And then the entitlement period of, I'm looking at tier two, is seven years, okay? And then your carryover period depends, because the life of the program now is limited to around 15 years or maybe 14 years, depending on when you qualified in your attainment period, compared to LB775, and I'm thinking it went 22-year time period. So there is a time period of how long you have to attain and then your entitlement period is important. That's when you get to use credits and earn a few more. And then you have a carryover period, which was limited under LB312 compared to LB775.

SENATOR NELSON: So on your program summary, which is page 5 here, you've got some programs that ended in 2005 and in 2000, but we're still paying out money. Is that...

KIM CONROY: Right. As I said, with LB775, they still could apply in 2005 for LB775...

SENATOR NELSON: Okay.

KIM CONROY: ...and the maximum life span, and I can't remember, I mean we can get back to you on that, I'm thinking we were up to 22 years.

SENATOR NELSON: All right.

KIM CONROY: So that's...that's why I'm saying on that LB775 chart,...

SENATOR NELSON: Okay.

KIM CONROY: ...it's still going to be there a while because there is a longer period of time to use those credits.

SENATOR NELSON: Thank you.

KIM CONROY: Uh-huh.

SENATOR HADLEY: Okay.

KIM CONROY: Okay. Now we'll get into some of the more specifics on the actual report. If you have a report in front of you, I don't know if you do or not, you have the PowerPoint? Okay. And I might ask Deepa to pull up the report for me, if you could do that. Plus, you have the PowerPoints in front of you. And we're going to go to pages 8 and 9 of the report, Deepa. Okay, if you go up, maybe on up to page 7. We'll start there. Yeah, right there. Okay. This is...we put an executive summary for you in place of the report this year. What this does, it gives you a look at the company-specific information that we have had in previous years' reports and then it gives you a summary of this year's report. These are the companies that qualified. We're going to then start accumulating the amount of credits that they've used, refunds that they've received, and provide that as a in total amount every two years for these companies. And you can see how we've been going up from 2009 was the very first year we did the company-specific reporting and where this year we have 26 projects that we're doing the company-specific reporting on. Again, as I said, those are the items that we can disclose, how much investment they've had, how many new jobs they've had, what their average salary is of those companies is disclosed, what their increase was from their year of application to what they're paying those new employees, and then the total tax credits used and refunds approved. And then on the next page is where the report lists each company on there, just in alphabetical order, and that's where that $115 million figure comes from. These are just companies in this two-year cycle. We still have other companies that are using credits, receiving refunds, but they might be on a different cycle than what these companies are. This was a big change from LB775, having this company-specific information out there for you to take a look at. So this is total tax credits used and refunds approved in 2012 and 2013. We don't, if there was any recapture, we don't deduct it from these amounts. There's no estimate of their property tax benefit in these amounts. This is just the state piece. And if you go to slide 15, can you go to...go to page 22 of the report. Page 22 starts with the other thing that we disclose are who as signed agreements with us. We have 218 signed agreements. They start with ones that were signed in 2013 and then it goes on to a cumulative amount of ones that have been signed thus far. So we had 53 agreements signed in 2013, 218 in total. If you go to page 37, if you can make that any bigger, I'll come back to page 37. On the PowerPoint, if you can go back to the one, I'm flipping back and forth, sorry, a little bit here. We'll go back to the PowerPoint and give you a summary, and then we can look at the specific table. Of the 57 companies that have qualified, here's how it breaks down on their investment, their direct refunds, drop box from total credits earned down through total outstanding credits, because that really should have been indented, and I'll walk you through. Total credits earned by those companies was $508 million. They've used credits of $178 million. They've had a credit balance recaptured of about $1.6 million. So that gives you the total outstanding credits for those 57 qualified companies down at the bottom with an increase in FTE of 9,302 FTEs. These totals you can see on page 37 of the report, so we added the pages there. So when you go back, you have the PowerPoint, you can look at page 37 and see in that column that these are the total amounts for those 57 qualified companies.

SENATOR MELLO: Now, Commissioner, that just includes, and if you looked at page 37, that does include the property tax, personal property tax exemption, and the sales tax refunds in that $328 million or no?

KIM CONROY: It includes the sales and use tax. If you look on...can you go to 37? I know it's kind of hard to see on that, on the last total one. But if you look, we have on tax credits used and we also have the sales and use tax refunds in here. We don't have the property tax. What's reported in here for property tax is the value...

SENATOR MELLO: Exempted.

KIM CONROY: ...exempted.

SENATOR MELLO: Okay.

KIM CONROY: We have another page in here that...where we give an estimate of what we think that amount is...

SENATOR MELLO: Okay.

KIM CONROY: ...by applying the statewide average property tax rate. And I have a slide and we have a chart in here, so we'll get to that here in a second.

SENATOR MELLO: Okay. But that $328 million incorporates sales...the sales tax.

KIM CONROY: Yes. Yes.

SENATOR MELLO: Okay. Great.

KIM CONROY: Those are the direct refunds, $67 million there.

SENATOR HADLEY: Kim, let's see if I can ask this so it makes sense. We have a number of companies that have not reached the qualification, right?

KIM CONROY: Uh-huh, a lot, uh-huh.

SENATOR HADLEY: So it is possible that we have benefits from this program that we really don't know about because we could have companies that signed up for it, met half their goals, three-quarters of their goals, but never attained...or attained. So...

KIM CONROY: Right. That's the correct term.

SENATOR HADLEY: And we don't know what that is. The numbers we're working with are the ones that have actually qualified.

KIM CONROY: They have a qualification. They've gone through that audit with us. That's what these numbers here are. These are the definite "knowns" that we have.

SENATOR HADLEY: Because we have a significant amount of companies that do not reach their goal.

KIM CONROY: We generally...we generally say, and I think...and Mary would know better, we...it seems like about 50 percent of companies don't meet what they have to do so they either...they don't hire enough people or their investment isn't enough. They don't do it within the time period involved, or their business model changes and they withdraw or they just stop participating in the program.

SENATOR HADLEY: Okay. Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Hadley. On this sheet on page 15 of the presentation shows 9,300 full-time employees reported increase in employment. That's the number of employees that were hired by these companies that are interacting with this program. Is that correct?

KIM CONROY: It's hours and it's converted then to FTEs, yes.

SENATOR SCHUMACHER: Okay. Now one of the things that we struggle with as a state is that we are near structural unemployment. Now yesterday in Kearney we heard that there, I think, was 500 jobs available. The Columbus Chamber is talking about hundreds of jobs available. You hear anecdotally from a lot of rural communities, there are no people that are available to work particularly that have the skills to work. And so these full-time employees, are they coming from out of state or are we, if we did this on a balance sheet, would we be losing FTEs on one scale and gaining them on the other so that the only thing we're really gaining is maybe the increased payroll from a slightly better wage from these companies? And is that an accurate measure of how much employment and how much payroll is being generated?

KIM CONROY: Senator, we, of all the things we have to do when we go out and audit, that's...we don't check to see where they were from, beyond making sure that they weren't a base year employee, so we don't know if it was someone that worked for one company that took advantage of a better opportunity at another. They were already a Nebraska resident. Or if it was somebody that moved in from out of state, that's not something that we capture in terms of data.

SENATOR SCHUMACHER: But maybe you do capture it. You have a big, fancy computer down there and you know the employer identification of the employer. You know the employee's Social Security number. And you would think there would be some fairly easy statistical way to say let's pick a sample of these employees that are supposedly job created; let's see which ones filed with a different employer the year before; compare the difference in their income, if they got an increase and that's why they moved to a new employee. And that is really the net employment productivity. I mean that is all in-house, isn't it?

KIM CONROY: We tend to always think computers can do everything for us, but what it does take many times is a tremendous amount of programming to make them do that for us. And you're talking about such a large volume of data that it would be...I just don't know if we can do it.

SENATOR SCHUMACHER: That doesn't seem like a very complicated query of that database.

KIM CONROY: Senator, I mean many of these companies have people that come and go within the year. Senator Mello even talked about that. I add in all the people that have worked, that have left, that maybe came back, and you're trying to ask us to do that type of analysis, it, number one, is going to take...I don't have a lot of extra staff to do projects. It would take some programming to do and I don't know for sure how you're going to interpret the results on this. I mean if you want to talk with us further about it as a request, we certainly can do that. But what I'm here today to talk about is the things that we right now are required to do in the report today.

SENATOR SCHUMACHER: But is it at least theoretically possible that this 9,300 FTE figure, if we compare it to a net situation of what was lost in other sectors, is really very high?

KIM CONROY: That's a question for my economists.

SENATOR SCHUMACHER: Okay.

KIM CONROY: I would not...I don't have enough economic background to know if that's a possibility.

SENATOR SCHUMACHER: Okay. Thank you.

KIM CONROY: And I'm sorry.

SENATOR SCHUMACHER: No. Thank you.

SENATOR HADLEY: I'd like to take a minute. You know, the LR444 and this are really meshing together, so I would invite the other members of the LR444, we put some extra chairs, if you'd like to come up in front and ask any questions: Senator Davis, Senator Watermeier, Senator Dubas. Yeah, please come up and join us. Okay.

KIM CONROY: Okay.

SENATOR KRIST: Senator Hadley.

SENATOR HADLEY: Yes, Senator Krist.

SENATOR KRIST: Yeah, just one observation: I don't totally understand the program but I've read a lot of it, so this is data. You're telling me that this is how the program works presently. And there's been several questions that have been raised that are analysis driven.

KIM CONROY: Uh-huh.

SENATOR KRIST: My frustration is right now listening to this, it seems like Department of Revenue doesn't do an analysis in terms of the questions that have been brought forward. For example, what I heard you say was that FTE number is hours converted to FTEs. So if that business...

KIM CONROY: That's what the definition is in the statute.

SENATOR KRIST: ...if that business reports that the hours have gone up, they could, in theory, and analysis would tell us this, not increase the population of their employee base but increase the number of hours that have been worked within the plant or the installation, and that you would convert to an FTE.

KIM CONROY: But, Senator, under the two methods we use to look to see if you are creating new jobs, you can't just add hours. You won't qualify for the program under that methodology. And the other thing I'd like to say, too, is everything in here is due to requirements that legislators have put in the act of information that they want from us as a part of this report. We get the information from the applicants. It's all accumulated for them. If there is something that you don't think we're doing that we need to be doing, I would say you would certainly look at the statutory section of what you want us to pull out of this report...

SENATOR KRIST: Okay. And I don't want to interrupt, but I guess my question comes down to what does 9,302 mean to me. Does that mean that you've had in statute Social Security numbers that have increased on the database on the employee side, or does it mean that they had to qualify with the number of people, flesh and blood, and then numbers were converted to FTE? What is that really telling me?

KIM CONROY: For the most part, companies are not going to meet the thresholds they have to meet by just increasing hours with existing employees. And in fact, if that's all they do, say I just have to add one employee, I just need one employee and I have two that are working 20 hours a week and I increase them both to 40 hours a week, under the second method that we look, you don't have any new employees. You're not going to qualify. You don't even get to one new employee for them.

SENATOR KRIST: Okay. So the validation... []

KIM CONROY: So there are safeguards in place to keep that from happening. There are safeguards in place to ensure that you actually are bringing in new people and not just paying your existing people more to get to that 30 new employee level or to get to that 100 employee new level.

SENATOR KRIST: And in your professional opinion, those safeguards in place are telling us that there are actually more jobs out there for...

KIM CONROY: Yes.

SENATOR KRIST: Okay.

KIM CONROY: Yes.

SENATOR KRIST: Thank you very much.

KIM CONROY: Yes. Okay, slide 16. Thank you, Deepa. And again, we had talked about page 37 and you can take a look at page 37. Do you want to go to that again, Deepa? And I don't know if we'll have time to go through it in a lot of detail, but there's certain pages in here I think that are pretty important for you to take a look at. Page 37 is one of them because it gives the totals for the qualified companies that we have right now. So again, we only have the qualifying projects. The chart is cumulative, so if you look at the number of qualifying projects, it adds up each year. So we started with 9 in 2006 through 2009, and then grew to 21, so that's what we mean when that's cumulative there. I don't think there's too much else to say with that one. Go to slide 17. This is just a pie chart just to give you a look at what...of what is on page 37 in terms of where these are used, and it goes to your question, Senator Schumacher. You were wondering on the breakdown between the corporate tax and the individual income tax, and you can see it's overwhelmingly on the corporate income tax side of where the credits were used. On the pink one, Senator Mello, on the personal property taxes exempted, we took that value and then we took it times what our property assessment division on that 1.9 percent. So that's our best estimate in terms of how much personal property tax was exempted due to companies that are in the program. Okay. This is the industry look where we take the companies and we break them down into industry types, and we've said when the program is new, we just don't have enough companies to pull a lot of different types of industries. So at the beginning of these programs, we kind of have to lump them into bigger buckets to protect confidentiality of the companies. But these are on pages 40 to 41. These include amounts that come if you have a signed agreement. So what we were talking about on the previous page, on 37, were just the companies that have qualified. Now we're going to be talking about companies that have signed agreements with the department. We have 218 companies that have signed agreements under LB312. To get this information for you, we rely on the companies to get...to provide us with the information. So of those 218 companies, I have 169 that provided us the information that's on this page. Sometimes if they file an application and sign an agreement in the same year, they don't have activity reports, they don't have a responsibility to give us because there's nothing there for them. But we had 36 that didn't respond with any document to us for this page. Of those 169 that did respond, 57 are those qualified projects we've already talked about and the rest of them haven't completed their qualification audit yet. They may have, even in what they're reporting to us, may just be their estimates, may not be what they actually have yet. They might not even themselves know what it actually is until they go through the qualification audit with us. And then of those ones that haven't qualified yet, keep in mind some of them aren't ever going to qualify. So I mean you have to think of all those different things as you start looking at the information in here, is we don't have all the information. Of the information we have, some of these companies may not qualify. So you have information in there for them too. So it's a look, kind of gives you an idea, of the companies that did report to us, at least kind of what industries they're in. But it's not the whole...it doesn't give you a whole picture, I don't think. I just want to remind you of that.

SENATOR CONRAD: What's the penalty or ramification for failure to respond?

KIM CONROY: Nothing. What happens though is you have to respond to us to get the benefits from us. So if it's reached that point, you know, you have to have signed that agreement with us. We do the qualification audit. We require that you have a signed agreement with us, and then you have to have done this reporting. At that point in time and then each year you want to use credits you have to provide us with the reporting. But there's nothing we do with a company that hasn't qualified yet to...we send reminder letters and we send, you know, trying to get them...because we know this information is important. We want to give the best picture we can to you on this reporting requirement so we try to get them to respond. But we can't...there's nothing that says we can make you do something on this until you want to use, then we do. Then we do.

SENATOR HADLEY: Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Hadley. Of the 218 companies that have got pending agreements...

KIM CONROY: Signed agreements.

SENATOR SCHUMACHER: ...signed agreements, if they all performed, magic happens, they all deliver, do we know how many credits we're exposed for?

KIM CONROY: We don't.

SENATOR SCHUMACHER: Okay.

KIM CONROY: We don't.

SENATOR SCHUMACHER: And so really a lot of this we don't know what our exposure is down the road how much of a commitment financially we're making here?

KIM CONROY: To a certain extent we do based on our history with LB775.

SENATOR SCHUMACHER: And what is that number?

KIM CONROY: We have a report that the economists put together on TRAIN that tries to look at what that might be. But again, it's an estimate out there.

SENATOR SCHUMACHER: Well, it's a future so it almost has...

KIM CONROY: It's a future, I mean, so we have those numbers in the report in terms of what the future might be.

SENATOR SCHUMACHER: In this report?

KIM CONROY: In the incentive report.

SENATOR SCHUMACHER: Do you know the bottom line offhand?

KIM CONROY: We have a...I mean we can get to that later.

SENATOR SCHUMACHER: Thank you.

KIM CONROY: But it's again an estimate because, again, keep in mind of those 218, they're not all going to qualify too.

SENATOR SCHUMACHER: Sure.

KIM CONROY: So our best universe in terms of even forecasting are those known ones, the ones we know have qualified of those 57.

SENATOR SCHUMACHER: But if we're looking to the future and saying how much are we committing to this program of economic development, it would be kind of nice to know our best guesstimate kind of thing...

KIM CONROY: Right.

SENATOR SCHUMACHER: ...just so we have an idea of the context of numbers, you know.

KIM CONROY: Yeah. I think our economists, I know along with the Legislative Fiscal Office, have become pretty adept at, at least into, you know, a two- to three-year period, of forecasting what the usage is going to be just because of all the history they've had with LB775.

SENATOR SCHUMACHER: Thank you.

KIM CONROY: When you go out even farther after that, I think any economist is going to tell you it gets pretty hard to do anything but an estimate.

SENATOR HADLEY: Okay.

KIM CONROY: Okay. And then benefits approved by industry, those start on pages 40 and 41. We base this based on the NAICS and then we group it by industry. And then on this one we don't disclose for an applicant or your agreement, we don't disclose what tier you have. But it's on this chart that you can look and see how the tiers are being used. So it tells you by industry group what tiers they are using and then how many companies are within that. As we get more and more companies in this program, just like we did with LB775, we'll try to start splitting these apart even further by NAICS code groupings to the extent we can. But we always have to have within these at least three so we don't have confidentiality provision violations for the companies. So that's what's on 39. And then 40 and 41 go through again by industry and give you the dollar amounts by industry. So it breaks again, like the previous chart did, tax credits used, sales and use tax refunds received, property tax value, and it does it by those industry groupings up there. And as LB775 dwindles down, we'll have to start combining more of those groups together.

SENATOR HADLEY: Senator Mello.

SENATOR MELLO: Commissioner, in looking at page 41, and I understand that not all the members have their report maybe in front of them...

KIM CONROY: And, Deepa, can...are you on 41 there?

DEEPA BUSS: Yeah.

SENATOR MELLO: An issue that was raised when the Performance Audit Committee did our initial audit on tax incentives was the cost per job in regards to what...in regards to actual revenue that we're losing and/or credits and/or combined with personal property tax exemption is costing per job created. There's been some, I guess, some polite debate in regards to how maybe we get to a number that people can generally agree on where the layman approach, I would say, if you look on page 41 if we take the total credits earned plus whatever that personal property value exempted times that 1.9 percent, divided by the number of jobs would kind of give you the amount that it costs to create per job, so to speak, for this one calendar snapshot year. Is there another way that the department kind of evaluates this in regard to trying to identify what it costs per job in regards to the incentives that are earned in comparison to the number of jobs created? I know it's something we've talked about within the Performance Audit Committee, with Performance Audit staff, the business community and others, and there doesn't seem to really be an agreement that has been kind of, so to speak, reached in regards to how we get to a real formula, so to speak, of how we can evaluate that. Any feedback? Any thoughts? What's the department...is it something you have wrestled with in the department of how you justify the costs associated with per job created?

KIM CONROY: But, Senator, we don't have a...you don't have a requirement in here that that's something we look at. While I do have a research section, and Senator Krist too, we're fairly lean. I mean we struggle to keep up with demands on all the studies that we're doing right now. And for us to just think we have staff to just go off and do big research projects, I don't have a staff to just...that just can think up projects and then go and try to do them.

SENATOR MELLO: Is that a budgetary issue then?

KIM CONROY: No.

SENATOR MELLO: Is that an appropriations request that I may be seeing or? (Laughter)

KIM CONROY: No, I mean, well, no, no.

SENATOR MELLO: I mean, what...

KIM CONROY: It's not that. But I'm just saying, no, we haven't looked at that. But I...

SENATOR MELLO: So that's not required in statute for you to give a cost estimate.

KIM CONROY: It's not required in the statute for us to look at that. But I will tell you...

SENATOR MELLO: Has the department ever looked at it, though? I mean it's...are you suggesting the department has never looked at the cost per job created in regards to running these reports ever?

KIM CONROY: But what would we do with it? I mean I don't...no, we haven't. We haven't really done that. But I will tell you we've done...we've looked at what other states...because there's a lot of discussion among all the states about tax incentives right now. And I think even Senator Harms could probably tell you or Martha on the legislative...on the LR444 is has any state come up with a formula? I haven't found one that's come up with a perfect formula. Are you going to look at it in total for the whole program? Are you going to look at it in industry groups here?

SENATOR MELLO: Or this just calendar year: the cost it is for this year and the cost (inaudible) per job.

KIM CONROY: Or just for this year...and keeping in mind that the early years of the program you're adding jobs and then you get the bulk of your sales and use tax refunds and stuff that happen and then it kind of starts to lessen. So at what point in time are you going to look? Looking at just one year by itself, I don't...it gives you a skewed result. And if you're looking at it in total, because I have tiers in here that don't require any jobs too. And if you're looking at it in total, are you going to look at it by tier or exactly how are you going to look at it? We don't because we haven't seen a state that has come up with a good way to do it, especially when we have as many tiers as we have and as many different types of companies that apply. And when we have different goals within the program to both attract new businesses and retain existing businesses, I just...in my opinion from what we've seen, we haven't seen...other states are grappling with it. I think Senator Harms would say that too. But it's nothing that anybody has really been able to quantify.

SENATOR MELLO: I don't want to sound argumentative, Commissioner. Is it...do you think that's information that policymakers and the public deserve to know, though, in regards to what we are essentially spending through the tax code for every new job that's created?

KIM CONROY: It's a measurement. But keep in mind the investment is important to the state too. I mean, are you going to just focus on jobs? And that's a question too. Or do you like to just have the investment come, the construction that comes, the work that comes with that construction, that new activity? So I...yeah, it's a measurement that can be looked...I'm not disagreeing with you on that. I...we've just struggled to come up with any type of reliable measurement beyond looking at it company by company by company.

SENATOR MELLO: Okay. Thank you.

SENATOR CONRAD: But just to follow up on that point then, you have no reason to disagree with the Performance Audit findings that show that Nebraska taxpayers were subsidizing, you know, approximately...up to $235,000 per job for salary ranges of $22,000 to $55,000.

KIM CONROY: Well, I won't say that because, again, that was an amount in total. And I think what I was just discussing with Senator Mello is that included I think everything in here. So you have companies that don't even have to have employees in some of the tiers. And it becomes very difficult from what we've seen because it can vary probably dramatically between industry, between types of businesses in there. I don't know what value an in total number gives you. That's just in my opinion.

SENATOR CONRAD: Okay.

SENATOR HADLEY: Okay. Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just one brief observation: Several times today, you know, there's been the thought that, you know, there's not resources in the department to get all the information for all the things that you are being asked to provide information for. Would it be beneficial for us to look at that issue at some time? We're talking about a program here that may have a taxpayer exposure well north of a billion dollars. And, you know, it's hard for all of us to get our hands around it. Yet it's so easy when you're writing a bill to throw in there, "and the department shall provide us with a report annually" which may or may not ever get into the level of consciousness of any of the legislators. Is there...should we be doing a cost-benefit analysis of these reports so we can get really good information on the really high-ticket items like this? I mean is there room for that do you think? You say, listen, why are we doing this report? Nobody reads it anyway.

KIM CONROY: We do what you ask of us...

SENATOR SCHUMACHER: Okay.

KIM CONROY: ...and we don't...we try to do our best at what you ask of us. And we don't complain about what you're asking us to do so we prepare those reports every year. I mean that's something I think you can talk about in looking or we could meet with you at least in regards to what our staff does. But when you're asking me to do things that aren't required and I'm trying to do all my other things that are required, I'm not asking you for more money. I'm not asking you for more staff. I'm just saying that we don't just do studies for the...

SENATOR SCHUMACHER: But maybe...have we asked you to expend resources on things that have far less value to the legislative system than perhaps some of these other analysis that could be done on this kind of stuff?

KIM CONROY: I don't know. I don't know. (Laughter) I don't know, because it's you in here, but there may be other senators that aren't here that would say, oh, I need this report. I need this information that you're getting for me so I can't...

SENATOR HADLEY: It's like the question, have you stopped beating your dog yet. (Laughter) Senator Davis.

SENATOR DAVIS: I'd like to get back to just sort of a nuts-and-bolts question more than anything else. We have property tax that's exempted as part of all of these exemption projects.

KIM CONROY: Um-hum.

SENATOR DAVIS: Can you tell me so we've got personal property which would be computers, airplanes, that kind of stuff. And then we've got some real property. The state reimburses the local entities for the real property.

KIM CONROY: Um-hum.

SENATOR DAVIS: What about the personal property?

KIM CONROY: No. The state does not reimburse on the personal property.

SENATOR DAVIS: Okay. So there is a $46 million hit to personal property then on page 17 of the PowerPoint.

KIM CONROY: It's $46 million on page 17, personal property tax is exempted.

SENATOR DAVIS: Right. And that's an annual...that's about...oh, that was this last year. Is that correct?

KIM CONROY: That's what it was for 2013. For 2012 I think I had it's like 33.

SENATOR DAVIS: Do you have any ability to project what that will be into the future?

KIM CONROY: I don't know if we have. I mean I can...we'll take it as a question, certainly look at it.

SENATOR DAVIS: I think that would be certainly useful.

KIM CONROY: Uh-huh. Uh-huh, we can do that.

SENATOR DAVIS: Thank you.

KIM CONROY: Uh-huh.

SENATOR HADLEY: Thank you. Continue.

KIM CONROY: Okay. What page are we on, 19 I think. I think we've talked a lot about...I've already kind of talked about I think slide 19 so I think I'm going to move on to slide 20. And this is the personal property value exempted. If you could pull up page 38 in the report, please, Deepa. Page 38 of the report has the value of personal property tax exempted. I mean that's what we are required to provide in here. We do that average tax rate just to give you...it's kind of hard to comprehend. But this gives you the breakout by the property class, Senator. So we have ag processing equipment; aircraft; computer systems and peripherals; and distribution facility equipment. And you can see by year and then by county. And again, this is value. This is the value of that property that was exempted. And then on page 39 we move into...and I talked about it earlier before I got into 40 and 41, the breakdown by tier on the principal business activity codes. And how are we doing on time, Senator? How are we doing timewise? Okay.

SENATOR HADLEY: We have...we're here at your pleasure so we're not going to shut you off. I think this is important information.

KIM CONROY: Okay. I don't want to go over and interfere with your next meeting so just let me know if I...

SENATOR HADLEY: No, I think we'll...since we're asking a lot of questions.

KIM CONROY: Okay. No, they're good questions.

SENATOR HADLEY: Yeah.

KIM CONROY: And I think that's what the purpose of this is for.

SENATOR HADLEY: That's right.

KIM CONROY: I think it's good to have at least you as a core group of senators that have an understanding of the program, kind of how it works. You can take it back, look at the numbers yourself, you know, within your separate committees, too, to examine some of the questions you've been asking me. And I don't want to appear that I don't have the answers in terms of whether we could research or do something like that. If you had a request, you can always run them through Senator Hadley to us, see how much time it would take. So I don't want to appear that we're not willing to do it but the purpose of the day is to try to get through this report. Okay?

SENATOR HADLEY: Well, I think, Commissioner, this does, as I said before, tie into LR444...

KIM CONROY: It does. Uh-huh.

SENATOR HADLEY: So this is why I think it's important that we all, if we're going to...

KIM CONROY: Okay. And then on pages 43 and 45 of the report we go through some of what Senator Schumacher was talking about on the projected revenues, gains and losses for LB312. I would prefer to have you maybe take a look at that. I don't know if I can answer a lot of those economist questions, but we certainly would take any questions you have about what that amount out there is. It helps to look at that at the same time that you look at the one for LB775. I have a hard time looking at the one for LB312 without looking at the one for LB775 to see what happens with those projected future taxes, credits, and refunds out there. Because with LB775, you see how it's dwindling down; and that helps put in comparison for LB312 kind of how it's going up.

And I don't think we have time for me to talk a lot about it and I professionally don't think I could. I'm not an economist in any way. The rest of the report on Nebraska Advantage Act itself is a comparison to other states, so that takes up a good part of the report, and that's in pages 46-64. I have one of our economist researchers spends quite a bit of time each year going and looking at every state and finding what we consider to be comparable programs to Nebraska Advantage Act. And he has links in there when you go to the report on-line, so we tried to look at states that are comparable, that they're offering an investment tax credit, that they're offering some type of, you know, have requirements to have employees and investment. It's not limited to just an enterprise zone. So within there we give a summary of what that state has and we try to give links where possible to that information on their own Web sites, and we update this each year. So that takes up another good part of the report. And then I think we have time to go to Nebraska Advantage Act, some other information that I wanted to share with you on slide 22. This gives you an idea of application activity that we've had since the act started. It gives you the number of applications for a year and then how many have qualified. Now when we looked at the 2006, you know, you see that at the end of 2013...keep in mind there's that seven-year attainment period. Mary had told me yesterday we're probably up to 45 as of now because we've had a lot of companies that have qualified of that first grouping. So it was 30 at the end of the year, but it's increased probably closer to 45 and that's where we would expect it to be, at roughly that 50 percent like we had talked about. That's where...that's kind of where you start seeing this. So as the years go by and that attainment period closes off, you'll start to see is that 50 percent valid or not? Now if you look at the 2013, we had 51 applications. No one is probably going to qualify the same year that they apply. So you're not going to see anybody qualifying because they have to spend the money on the investment and hire the employees.

SENATOR HADLEY: Commissioner, if I remember something you said earlier, approximately 50 percent of the companies...50 percent of the applicants will qualify.

KIM CONROY: Um-hum.

SENATOR HADLEY: Did you make that comment?

KIM CONROY: Um-hum.

SENATOR HADLEY: So we could look at the future that basically we're looking at about 225, give or take, of these 450 companies, using past projections,...

KIM CONROY: Right.

SENATOR HADLEY: ...will qualify.

KIM CONROY: Right. Uh-huh.

SENATOR HADLEY: Senator Davis.

SENATOR DAVIS: Just to follow up on that question, how did you come up with the figure of 50 percent will qualify?

KIM CONROY: Based on our history with LB775, the same type of look like this and...

SENATOR DAVIS: The reason I asked that question, starting in...really starting in 2007 we started downhill and we're just now coming out of that. But we have already met the 45, the 50 percent. I'm just wondering if that long recessionary period might indicate that maybe that idea of 50 percent might be below what actually will happen in the future. You see what I'm getting at?

KIM CONROY: Right. And I think you can see the impact of the recession when you...you know that chart we had, I mean, kind of how there was a drop during that time period, too, in the amount of credit usage and refunds. I mean we did see that. So you're correct. It might have an impact on these years in here to where it might be less than the 50 percent.

SENATOR DAVIS: Well, I guess what I'm thinking is as things get better you may end up moving up more towards 75 percent if you've met 50 percent in the worst recessionary period for 80 years, you know.

KIM CONROY: Right. But LB775 was over a very long period of time, too, and I think we saw some of the same ups and downs in the economy.

SENATOR HADLEY: You know, you mentioned earlier about the economist. Just remember, an economist is somebody who wanted to be an accountant but didn't have enough personality so I just thought I'd let you know.

KIM CONROY: Oh, I can't say that. (Laughter) I don't know, do we have some sitting behind me? I think I do (laugh), one with a cowboy hat maybe. Where is he (laugh)? Also just wanted to let you know...can you go to our Web site again? Every quarter we go in and put a list of applicants in alphabetical order so you can see this total by company too. And I just wanted to show you how to get there. So you go to tax incentives and then you go to Nebraska Advantage Act, scroll down a bit and then right there, list of Nebraska Advantage Act applications. And I'll talk a little bit. This Excel file takes a while to pull up. What we've been trying to do, instead of putting PDF documents or flat ones, we're trying to have all of our research information in Excel files so researchers can take that information and use it to the extent they want to. It means though it takes it a while to sometimes pull up. So as Deepa...there it is. We try to update that every quarter. And if you...it gives you an idea of every company that's applied, their name, their location, and what they expect to do in terms of investment and in terms of their full-time equivalents. So that's all out there on the Web site.

SENATOR HADLEY: Would there...so we know who's applied and we know who reached the qualification.

KIM CONROY: Um-hum.

SENATOR HADLEY: Would there be...not that you would do it, but would there be any advantage to surveying those companies that haven't made it as to what happened to them? Did they add new jobs? Did they...you know, why didn't they make it? What...you know, to get a full...

KIM CONROY: Uh-huh.

SENATOR HADLEY: ...impact of the program, because we know nothing about the companies that didn't make it, right?

KIM CONROY: Right.

SENATOR HADLEY: All we're talking about is the companies that did make it. So that's just something...

KIM CONROY: I think our staff probably knows some of the reasons why, but it's again a lot of it's confidential...

SENATOR HADLEY: Sure.

KIM CONROY: ...at least for those companies and then other ones really do just leave the state. And there wouldn't be any really good way to probably get that information out of them. Again, I mean you can...you can always ask somebody something, but it doesn't mean they're going to...yeah.

SENATOR HADLEY: No, and I understand that. But to me it would be a great number to be able to say that those 50 percent that don't make it...

KIM CONROY: Uh-huh.

SENATOR HADLEY: ...they contributed 4,000 or 5,000 new jobs to the economy but they just didn't...

KIM CONROY: Right. We just don't have that information.

SENATOR HADLEY: And we don't...and they did X million dollars of investment.

KIM CONROY: And it doesn't get on that chart that I told you about if they don't let us know.

SENATOR MELLO: But I guess as a follow-up, Commissioner, though so they're not giving...they only are reporting...entities are only reporting back to you when they feel they've met the attainment level so...

KIM CONROY: No. Remember that we have other companies that haven't met it, they're still reporting. But I think I said that there were 36 in there that just wouldn't...that didn't respond.

SENATOR MELLO: Yeah, so I guess Senator Hadley's point though is those companies are reporting but never reach the attainment. It would be worthwhile for us and the public also to see what were their impacts even though they didn't attain the level of application that they put in. Thus, I think Senator Hadley's point is they...

KIM CONROY: Right.

SENATOR MELLO: ...may have created 50 jobs but their attainment level was 100 so they didn't qualify for any credits.

KIM CONROY: Well, they still would have dropped down to a tier two. So keep in mind when we talk about tiers and that requirement of...so if we go to tier two, you have to have 30 jobs and $3 million. In tier four, you have to have 100 jobs and $12 million of investment. If you don't meet tier four, you can still drop back down to that tier two where you just need to have 30 employees. So it isn't the fact them not reaching 100. It just typically means that they're not going to have a personal property tax exemption. It still means they'll qualify, though, at the tier two level.

SENATOR MELLO: Okay. I guess that the underlying premise though still...it still would be worthwhile to know if 50 companies put in at tier four and 49 of them dropped down to tier two. I think that's part of, to some extent. Maybe I think...I'm just inferring what I think I took from Senator Hadley's question is when they put in an initial application they want to be here and they don't get there. Even if they drop down to tier two, why didn't they get to tier four? What was some of the rationale? Were there other components, extenuating circumstances that maybe we as policymakers need to know and/or could try to address in the future I guess?

SENATOR HADLEY: And that's what we might be able to get at with LR444, too, is what kind of...

SENATOR MELLO: The effect, yeah.

SENATOR HADLEY: Senator Wightman.

SENATOR WIGHTMAN: Thank you, Chairman Hadley. Commissioner, can...do you have figures that would give you an idea of what the cost is in just implementing LB775 and then the new law as well? We keep talking about could we get more information. If we knew a little bit about what the cost is of just handling it right now and how many employees...how many employees do you have in your department?

KIM CONROY: In the department?

SENATOR WIGHTMAN: Yeah.

KIM CONROY: Roughly 400.

SENATOR WIGHTMAN: 400. How many of them work on this? Do you have any idea, LB775?

KIM CONROY: Oh, in Mary's group I think we probably have about...we have 11 but that's just within her group. We have a lot of other people in the research area, in the legal area, in the policy area, in communications getting the report and, you know, so it's more than just that piece. And I'm also...Mary in her 11, that's just that group. We're not counting all the auditors...

SENATOR WIGHTMAN: And that's all the work...

KIM CONROY: I'm not counting all the auditors that have to go out and do all the qualification audits in that either.

SENATOR WIGHTMAN: Okay.

KIM CONROY: I think we'll have more information for our presentation that we're going to give on the administration of the program to LR444 in September.

SENATOR WIGHTMAN: Okay. Thank you.

KIM CONROY: So we can provide more of that information in September that you are asking about in terms of what it takes the department to administer the program.

SENATOR WIGHTMAN: It would give us an idea of whether maybe we ought to expand it enough to cover some of the things that other senators have asked here today by adding an employee. Could we do that? Could we have a lot more information available to the public and to our committee?

KIM CONROY: That's certainly something you could look at.

SENATOR WIGHTMAN: Thank you.

KIM CONROY: Thank you.

SENATOR HADLEY: Okay. Continue.

KIM CONROY: Okay, slide 23. Just wanted to give you and we've talked about...and I've already talked about some of them so I don't need to spend a lot of time on here, but about the differences between Nebraska Advantage Act and LB775. At a certain point in time I don't think we'll be talking about this slide anymore. But you saw it in the very, very beginning that we still have more credit usage and refunds from LB775 than we do LB312. So we still have to talk about LB775 for a number of years. But Nebraska Advantage Act added more tiers. It's pretty easy. LB775 was pretty simple, you know, before. We didn't have as many tiers as we have now. We've added in a lot of additional qualified business activities. If you look at LB775, we maybe had here and now we're out to here on the types of companies that can qualify for incentives. We already talked about how the length of the attainment period, entitlement period, and carryover period was shortened, condensed for LB312. The new usage we talked about for the income tax withholding and the real property tax reimbursement were not present with LB775. When we look at employment and the calculation, we now have to look at the rate of pay for those new employees to make sure that they're meeting the minimum. And there's additional types of property that are now eligible for the personal property tax exemption than what there had been previously. Now we have a little bit of time for the other incentive programs.

SENATOR HADLEY: We have one...

KIM CONROY: Oh, I'm sorry.

SENATOR HADLEY: ...quick question. Senator Bolz.

SENATOR BOLZ: Just...forgive me. I need to slip out at 10:30 so I'm going to get a little bit ahead of you. But in terms of other incentive programs, one that I'm interested in learning more about is the Microenterprise Tax Credit program. I'm surprised that $1.1 million was utilized while we have a cap of $2 million. My memory says that that's been a popular program in the past. I'm curious why the full amount wasn't used, what you think is happening in terms of that particular program.

KIM CONROY: Okay. Thank you for the question. Why don't we just jump ahead then to Microenterprise while you're still here? Companies under that have two years so it might not all happen in the first year. The $10,000 that's reserved for them, again, it's tentative. It doesn't mean that they'll all get $10,000 of that tax credit. It's going to be dependent upon the investment, on did they hire new people, or they can also use other expenses that they have to qualify for that. And it's a refundable credit. So they have a couple of years to do that. And while they may have asked for a tentative tax credit at $10,000, it doesn't mean everybody gets $10,000. It's reserved for them, but it doesn't mean they always reach the maximum level.

SENATOR BOLZ: So we didn't reach the $2 million cap because we've reserved some of that capacity back for applicants who haven't reached it yet?

KIM CONROY: Well, so if you apply this year for it, you're going to have two years. So you're not going to see everything happening all within one year for that applicant. I think we...did we reserve all $2 million last year? Yeah, last year we did and this year we haven't reserved all of it yet of that $2 million.

SENATOR BOLZ: Is there demand for that program that's not being met? Are there more people interested in pursuing that program than you're able to...?

KIM CONROY: I think in some years we've seen that or they'll wait and apply the next year at the beginning so that they know they can get in and get a credit for that. So even though they may have been wanting to do it towards the end of the year, they can wait and do it at the beginning of the next year. And they're probably going to be ensured being able to apply for the credit by doing that.

SENATOR BOLZ: Okay. That's helpful. Thank you.

KIM CONROY: Uh-huh. Okay.

SENATOR SULLIVAN: Senator Hadley, can I...

SENATOR HADLEY: Yes, Senator Sullivan.

SENATOR SULLIVAN: Thank you, Commissioner. Is...perhaps part of the problem is the $10,000 too low, lifetime credit, maximum lifetime credit?

KIM CONROY: I don't know.

SENATOR SULLIVAN: Do you get any sense from what your...

KIM CONROY: I mean I don't...I can't answer that question. I don't know. I mean I think it was geared towards a microbusiness so you'd have to say is that...is...and it's a 20 percent credit that they then receive, too, and it's refundable. So I...I mean it's different than the other programs. But whether you would want it to be greater than $10,000 and keep a $2 million cap, so you have less people getting tentative tax credits, or are you going...are you looking at a bigger credit with putting more money into the program, that's a decision I will leave to you on that.

SENATOR SULLIVAN: Has it been at $10,000 since its inception?

KIM CONROY: I think so.

SENATOR HADLEY: I'll get to Senator Schumacher in a second, but I believe this LB612 was Senator Conrad's, the one that...the requirement, the reason we're having this meeting. Was that your bill?

SENATOR MELLO: Schumacher's.

SENATOR HADLEY: Huh?

SENATOR MELLO: It was Schumacher's.

SENATOR CONRAD: Paul's fault.

SENATOR HADLEY: Oh, it's Paul's. Okay. I'm sorry.

SENATOR CONRAD: Mine was directed to the administration, to the Governor's Office,...

SENATOR HADLEY: Okay.

SENATOR CONRAD: ...in terms of their budget.

SENATOR HADLEY: You know, we might look...just a thought crossed my mind. We might want to expand to also ask DED to be here at the same time, because we're asking the Commissioner questions that might be better posed to the Department of Economic Development: you know, is that...is that the right cap and are companies not using it? You're basically the score keeper, right? You're the ones that are...

KIM CONROY: Well, we're not...we don't...we're not job...we're not in the business of job creation.

SENATOR HADLEY: Yeah.

KIM CONROY: I mean that's not...we collect taxes and...

SENATOR HADLEY: You're not out talking to a company and trying to sell them on using this,...

KIM CONROY: No.

SENATOR HADLEY: ...whereas...

KIM CONROY: I mean but our educators do go, I mean we do go out and explain these programs. I mean it's not...

SENATOR HADLEY: Sure. Sure, but I just think...

KIM CONROY: ...I mean we do let people know but, yeah.

SENATOR HADLEY: ...I think DED is something we need to...Senator Schumacher.

SENATOR SCHUMACHER: Just...thank you, Senator Hadley. Just a little follow-up on where maybe Senator Sullivan was going. You know, as a small business person, you look at the $10,000 is all you can get out of this thing, and I mean how much would the average little company have to spend on an accountant, a lawyer, extra paperwork in order to get just $10,000? Is it...I mean what does the paperwork involve? What are...do we know how much overhead they have to take on just to get the $10,000?

KIM CONROY: Well, they have to have their records. They have to have their investment records. They have to do E-Verify. They have to show that they have employees that they hadn't hired before. And then they just have to show us those expenses that they've had in getting their business going up, getting it started. So if they've kept their records, it's not...I don't think it's a big burden on them. I mean maybe you've heard otherwise but...

SENATOR SCHUMACHER: Okay. That's what strikes me that, you know, it...

KIM CONROY: Yeah. But I think for a small business, I think that...and especially since it's refundable, I mean it's a...for a small business, I think it's of help to them.

SENATOR SCHUMACHER: But there is some overhead and some aggravation in providing records and...

KIM CONROY: Yeah.

SENATOR SCHUMACHER: Okay. Thank you.

KIM CONROY: Yeah.

SENATOR HADLEY: Okay. Let's go through the rest of the programs quickly and we'll...

KIM CONROY: Okay. I'll go back to where we were on page 25. The Rural Development Act only has $1 million available, so there's just not...and I think we only had...you go to page 65 and 71. They also have a refundable income tax credit or a refund of sales and use taxes they've paid. But everybody goes for the refundable credit. We don't have anybody that does the refund of the sales and use taxes paid. It's first come, first served in terms of dollars for that. As Mary Hugo had reminded me yesterday, it really is the only program where a truly rural farmer can apply under these programs, where we have three different types of projects that you can qualify under for it. But if you look at the, yeah, the chart, so for...yeah, go back. For 2013, we had two applicants that took the $1 million. And for '12, we had six. So it's...it, again, depends on who gets in first to ask for the credit, but there's only $1 million there for it. And Microenterprise we've talked about briefly on page 26, that there was $2 million available. Refundable credit, you know it's the maximum lifetime. And about every part of the state is eligible except certain census tracts in Cheyenne and Washington County are the only ones that aren't. The Research and Development Act on page 27, again, everyone seems to take the refundable income tax credit and not the sales and use taxes paid on that; can claim it for 21 years. And the amount of credit depends on where you're doing your research: 15 percent of the federal credit; or it's increased if you're doing it for research activities on the campus of a college of university.

SENATOR MELLO: Commissioner,.... []

KIM CONROY: Uh-huh.

SENATOR MELLO: ...has it always been both the Microenterprise and the Research and Development Acts don't list the specific entities receiving them in comparison to all the other programs list who is receiving, put an application in, has been qualified as...?

KIM CONROY: Correct.

SENATOR MELLO: It's always been those two? Is there any policy...I mean, does anyone from the department remember, is there a policy reason why we didn't want to disclose who was getting the Microenterprise Tax Credit or the Research and Development incentives?

KIM CONROY: I was not with the department at that time and I don't think I've ever really had any discussions about disclosure on Micro beyond it's small. And Research and Development, since they're taking a piece of their federal credit and there's so many provisions on federal tax confidentiality, those would have been the reasons I would maybe thought the discussion would have gone around. And as I said before, with Research and Development, they don't file an application with us. They take this as a...

SENATOR MELLO: Uh-huh.

KIM CONROY: ...credit on their income tax return too. So I...but I can't answer your question definitely.

SENATOR HADLEY: Okay.

KIM CONROY: We've talked a lot about LB775, but I'm not going to talk a lot about it at this point in time because it's an expired program. The basics of Nebraska Advantage Act are what we had in LB775. LB775 had the direct refund; had an investment credit of 10 percent, no variability to it; had a compensation credit and a personal property tax exemption. So those were the basics of it. The use of the credits was a little...there weren't quite as many things, and we've already talked about how the differences were there. On slide 30--you're already there, Deepa, thank you--the tax benefits, and again very similar to LB312 so I don't think I need to spend a lot of time on it. There is a lot of...there are a lot of pages in the report on LB775 just because of the size of the program, but we don't have time to go through that in any way this morning. The remaining couple of programs, the Quality Jobs Act was a wage benefit credit. If you want to go to...it's on page 125, and there were some requirements under that. It was heard before a board. There as a "but for" test with it. They had to use the money on, like, employee training or other different areas.

SENATOR HADLEY: I think, Senator Harms, do you have?

SENATOR HARMS: I'll wait till the end, okay?

SENATOR HADLEY: Pardon me?

JOHN HARMS: I'll wait till we get right here at the end, okay?

SENATOR HADLEY: Okay.

KIM CONROY: Yeah. And we only have one company that's still active on the Quality Jobs Act. And then LB620, did I skip over it? I went to LB829, didn't I? Sorry. If you go back a page, I went ahead of myself, page 30 was Invest Nebraska Act for LB620. And if you want to go to that on the...it's on page 119 it starts. You chose either it was an add-on to the LB775, so you got an additional 15 percent investment tax credit with it on top of your...if you had an LB775 project. Or for a smaller company you could take a compensation credit. So it depended on what option you picked for that one, but here's the companies that still have active signed agreements under LB620. And that closes my presentation, Senator Hadley and Mello, unless you have any other questions.

SENATOR HADLEY: Are there questions? Yes, Senator Harms.

SENATOR HARMS: Yeah, just have a couple comments. I listened very carefully today about your presentation and I thank you very much for doing that. The cost, when we talk about the cost per employee, Performance Audit Committee has gone through that and after one of our reports, I think Martha and I sat down with some of the stakeholders. And to be very frank with you, there isn't any reason in the world why you can't get the cost. Just you have to agree upon the components, you have to agree upon what goes into that. And with technology the way that it is today, there is no reason in the world why you cannot come to grips with the costs, because they can give you any variable you want. It can run every variable in the world you want. So setting that aside, that's my observations. Since these have all been implemented, Nebraska has changed tremendously. It's evolving into another Nebraska. It's changing. And what we heard yesterday kind of caught my attention listening to the people who are in the field with economic development when they were telling us yesterday that what we are short in this great state, unbelievable number of computer programers, tool and die, welders, engineers, and nurses. And on top of all of that, even if we could get to those, we have no housing. So I think to a certain degree, as we look into the future of Nebraska, we may have to look at some other types of incentive programs here or make some adjustments in some of these programs, because without the housing, without this educated work force, Nebraska is going to come to a halt. Omaha and Lincoln may continue to grow, but I think when you look at Kearney, as we heard yesterday, housing is a big issue there. Sidney, a phenomenal issue there with their growth and Cabela's is having to put over $300 million into just housing. Should they have to do that? I don't know. That's a question, a policy question you'll have to answer for those of you who will be returning. But I think Nebraska is changing and I think if we're not careful to make adjustments to the changes, we will fall short. And so I would encourage you, as we go through and as we look at our policies for the future that we take these things into consideration because I think there's going to be a need. And there will come a point where we will have no further growth. The other side of it is, that they hit fairly strongly, was the educational component of the public schools. They just didn't feel like our public schools were giving them the kind of students that we could put to work. So it comes back to this thought about career academies and this whole exposure of kids, giving them that opportunity to have this different experience so they'd have some ideas about maybe what career they'd want to go into. So that's the only thing I would caution you about is that we've changed and we are changing. And if we don't pop into that change and look at the planning process, which we see a lot in the planning side of it, we might just miss the boat. So that's what I would leave with this. I thank you for what you've done, but I'm not so sure that you shouldn't start to look at where Nebraska is today and where we want to take it tomorrow, because it's changed. That's what I would leave. Thank you.

SENATOR HADLEY: Thank you. Thank you, Commissioner. I would like to make just one last comment. You know, I go to a number of fiscal meetings and such as that and economic development is one of the things that's talked about a lot. And really, we do have a pretty good system in Nebraska. The fact that they have to attain to get it, because a lot of states they get it up-front and then they spend all their time trying to get it back from the companies that don't make it. We do have transparency. A lot of states literally it's behind closed doors. We have less. So we appreciate your coming. With that, we'll take a ten-minute break. Yeah.

SENATOR CONRAD: Yeah, I just...I don't disagree with those statements at all, Senator Hadley. I think you're right. Our public policy has continued to evolve in appropriate direction, always making improvements, whether it's setting wage standards, whether it's improving disclosure, whether it's being more flexible to the changing economic conditions. But I think...and this hearing is a good example from legislation that Senator Schumacher brought forward that we're continuing that dialogue so that we can continue that evolution. But one thing that I just find probably as a takeaway from this discussion and all of the information and data that we have available to us is that we still don't have a handle on the value question that is posed to us as policymakers and that is our obligation to answer for taxpayers. We know that we're spending tens of millions if not billions of dollars with these types of programs and we can't answer whether or not they're a good value for the taxpayer in comparison to other investments and other competing interests within the state budget. And I find it surprising that we don't have that analysis or information available to us at this point in time. I also find it surprising and odd that the department or the administration or other partners engaged in these same policy questions haven't asked those same questions and figured out a way to do it. Now we're on our way out. We haven't figured it out in eight years so that becomes the charge for the next Legislature. But I think that's a striking point about the limitation of all of this time, effort, discussion, and data that we can't answer that most fundamental question today.

SENATOR HADLEY: I'm just going to say Senator Harms and his LR444 is going to come up with that answer.

SENATOR CONRAD: Perfect. (Laughter)

SENATOR SULLIVAN: We'll have all the answers.

SENATOR HADLEY: We're going to turn it over to him and he's going to write a report and Martha is going to write a report that's going to answer every one of those questions by the end of the year.

______________: And I will read it.

SENATOR HADLEY: With that, we'll take about ten minutes and we'll set it up for LR444. Thank you.