[LR444]

The Committee on Tax Incentive Evaluation met at 9:00 a.m. on Thursday, June 19, 2014, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR444. Senators present: John Harms, Chairperson; Dan Watermeier, Vice Chairperson; Greg Adams; Annette Dubas; Galen Hadley; Heath Mello; Paul Schumacher; and John Wightman. Senators absent: Al Davis; and Bob Krist.

SENATOR HARMS: I wonder if I could have your attention just a minute. I'd like to go ahead and open up this briefing if we could. So thank you, first of all, for coming. It's...appreciate you taking your time out of the summer to be a part of this. I serve as the Chair of the Performance Audit Committee and also the Chair of the this particular committee. And this study committee is going to pick up where our Performance Audit Committee left off, you know, in regard to a number of the things we've discovered as we went through the...looked at the incentive programs. And our Audit staff have been there at least twice, and we've looked things over. And that's what created this committee that now is for us to look at how we might make it a little easier to evaluate. I want to make sure that, because we're streaming across Nebraska and to the rest of the world, people understand that the intent of this committee is not to eliminate any of the six incentive programs, so I don't want any misunderstanding about that, and that our purpose simply is to make it easier for us to identify the goals. And we will help write those goals, since the Legislature created this structure, and a way to measure those goals and a process that we'll use for evaluation. So that's really what this is about. Okay. So I don't want any misunderstandings by the media. We have taken time to visit with stockholders before this meeting has taken place. And so the people that we have other correspondence with we have visited personally with so that we've tried to make sure that everyone understands what the purpose of this is because this is an important decision you're going to make. It could have an impact on our economy, and we want to be competitive and we still want to have a strong economy. So that's kind of where we are in regard to this particular legislative resolution. So now what I'd like to do is for each of us to introduce ourselves, and start with Paul and... [LR444]

SENATOR SCHUMACHER: I'm Paul Schumacher from Columbus, District 22. [LR444]

SENATOR DUBAS: Annette Dubas, Fullerton, District 34. [LR444]

SENATOR HADLEY: Galen Hadley, Kearney, District 37. [LR444]

SENATOR WATERMEIER: Dan Watermeier, District 1, Syracuse. [LR444]

SENATOR WIGHTMAN: John Wightman, Lexington, District 36. [LR444]

SENATOR ADAMS: Greg Adams, District 24, York and Seward. [LR444]

SENATOR MELLO: Heath Mello, District 5, south Omaha. [LR444]

MARTHA CARTER: Martha Carter, legislative auditor. [LR444]

KATE GUDMUNSON: And Kate Gudmunson, performance auditor. [LR444]

DIANE JOHNSON: And I'm Diane Johnson, the committee clerk. [LR444]

SENATOR HARMS: Okay. Well, thank you very much. Thank you very much for coming. What I would like for us to do, if we could, is to approve the agenda and submit it to you. I'll entertain a motion to approve that agenda. Is there such a motion? [LR444]

SENATOR WIGHTMAN: So moved. [LR444]

SENATOR HARMS: Is there a second? [LR444]

SENATOR WATERMEIER: Second. [LR444]

SENATOR HARMS: Discussion? Those in favor say aye. Opposed (inaudible)...let me now just take YOU down through a little bit of where we're going to go with this today and one of the problems that we have. This morning's briefing is, as I told you before, is live streamed. We're not taking public comment. This is truly just a work session. You'll have a short presentation from our staff about some of the things that we have discovered as we've gone through our review of this particular...these particular programs. Bob Zahradnik, who is from Pew, was to be here, and unfortunately Bob got caught in the weather. And he is unable to be here, and I think he notified and finally gave up about 12:00 last night saying, I can't make it. So that's going to kind of change some things for us, and I'll walk you through those changes that we're going to...that we'll have when we go through this part of it. One of the things I would ask for you, as we go through our presentations, I would like for you to ask your questions during the time that we're presenting, not at the end, okay? And the reason for that, as I always have felt: As you wait until the end, sometimes you're tired and then we...you just don't bring it back up, it just kind of drifts away. So whatever stimulates you to ask the question, ask the question then, because what I want this to be is an open dialogue. I want it to be very clear of where we're headed and what's going on, be very transparent with this particular issue. So if you would, if you've got any questions, ask them right then, and so each of the presenters know that that would be...we were going to go that particular route. Afterwards, when we close down at noon, we'll have to wait and see how this works to see whether or not we actually will come back after noon. If we can speed this process up, we might be able...since Bob is not going to be here, we might be able to do most of the work this morning. But if we decide to come back at noon...after noon, you're on your own for lunch. You can go to the cafeteria. They have a place set in the back, in that back area to the west of the room, that you can get together and sit down, have lunch, and then we would start at 1:00 sharp. The afternoon session, if we would have it, will not be streamed. And this is where we will actually have our discussion and we'll start talking about some of the things we'd like to see included. Now since Bob won't be here, we may be able to move that forward. I want to make sure that we capture what you think is important that you would like for our staff and Bob to work on, because when we come back in July we hope to have a lot of this already laid out for you so you have something to work with, something that you can take back and study. Then we'll have a meeting in September. Senator Hadley would not be here. But we're not going to make any decisions in October...in September. We will have already had our hearings then, and so we'll then mull over that information of how that fits in and where you want to be. So there will be a lot of opportunities for discussion, and I'm hoping this...in regard to this particular issue. Before we leave today, I do want to talk or, I think, Martha would...and the staff, we would like to visit with you about the Gallup corporation and that one question that was brought up. This is a great example of why you have to have better definitions in the law. And so we want to...we just want to share that with you, what our findings have been, because we looked into that immediately, and I think it's important for you to know. And it brings home the very question that all of us have had about, how does this operate? And it also gives our Revenue Department a little bit of help here with how we define some of this. There's also a letter included from Al Davis. We want to take just a moment with you to discuss this with...the letter that Al Davis sent. He's on this committee; he was appointed by the Executive Committee. And he was unable to be here today. The notebook that you have before you, we'd like to have you leave that here. (Inaudible)...our staff will then...the Performance Audit staff continue to add to this, and then we'll get back to you well in advance before we have any other meetings or conversations about this topic. That way we can keep you up to date with all the information and making sure you have it in your notebooks. Okay. Now I'd like to, if we could, to elect a Vice Chair. I think it's really important to have a Vice Chair here in case I can't be here or something happens that makes it impossible for me to be here. We can just keep the process moving and we're not delayed. So I'd open the floor for any nominations for a Vice Chair. [LR444]

SENATOR MELLO: I'd like to nominate Senator Watermeier. [LR444]

SENATOR HARMS: Okay. [LR444]

SENATOR HADLEY: I would second that. [LR444]

SENATOR HARMS: Okay. Any other nominations? Well, I would ask that we cast unanimous ballots and welcome you to the Vice Chair position. Thank you. Thank you. [LR444]

SENATOR WATERMEIER: Thank you. I accept. [LR444]

SENATOR HARMS: It's a good combination because he's been involved on the working...and he's also the Vice Chair of the Performance Audit Committee. So thank you. I think we'll have smooth transition if we have to use that. Let me just take just a moment to kind of review for you the summer and what our plans are, so you have a better picture of what we're looking at. By December 15, we're going to have to have a final recommendation to our Executive Committee of what we're recommending. And this would include measurable goals for the Nebraska six incentive programs, a way to measure those goals, and any statutory changes that need to take place. Okay. So that's what we're looking for, and we're hoping that we can have this report done before December 15. We'll just have to wait to see. So there's plenty of time for people to view this and to get their input into the program itself. So that's kind of what we're...where we're headed. As you know, we have a meeting...our meeting today, then we'll have one in July. We'll follow up. Bob will be here in July. We'll probably go into a little greater depth and try to answer some of the questions that you brought forward for us. We hope to have, as I said earlier, everything kind of drafted out for you when you come back in July. Then you can start to really mull over what your thoughts, what your views are in regard to this. We'll have two hearings, public hearings, one in Kearney on August 27, one in Lincoln on August 28. Now the location in Kearney has not been identified yet, but we will get that taken care of. And we are asking for the public to come. We will...sending direct letters, formal letters inviting people to testify. We will also at those hearings have a list of people in the order we'd like for them to testify, and then we'll open it up to the public. So we're trying to encourage people to come to talk to us about what we will need to do, what they would like to see us do in regard to this particular program. The other thing, as I mentioned earlier, since Bob is not here, we will have to have...we weren't going to have a meeting in September. We will have to have a meeting in September. Senator Hadley will be missing, but we will not make any decisions. Since he's the Chair of the Revenue Committee, we will not make any decisions in September. Those will come in October and November. So do you have any questions you'd like to ask up to this point? Did I clearly confuse you, or are you on target? Okay, sounds good. Just remember, December 15 is our deadline, and we will meet that deadline. No matter how long, how hard it is for us to get there, we will get there. Now I'd like to have Martha give us just a brief review of the...what our Performance Audit Committee has found, you know, in regard to the tax incentives. And then Martha and her staff will then kind of pick up where Bob would have come into the picture. So let's start with you, Martha, and then I want to talk a little bit about Bob (inaudible). [LR444]

MARTHA CARTER: Okay. Thank you, Senator Harms, members of the committee. For the record, my name is Martha Carter, M-a-r-t-h-a C-a-r-t-e-r. So just a little bit of background: In early 2013 the Performance Audit Committee released its evaluation report on the Nebraska Advantage Act, and that really is what has ultimately led to the creation of this committee. I'm just going to touch on a few of the big points. There's a lot more detail in the report, obviously. But for purposes of just providing background today, the key finding really was that the program goals reflected in both the statutory language and the legislative histories that we reviewed were too general to permit a meaningful evaluation of whether the programs are accomplishing what the Legislature intended them to do. So, for example, the intent language states the broad intentions to: encourage new businesses to relocate to Nebraska; retain existing businesses and aid in their expansion; promote the creation and retention of new jobs in Nebraska; and attract and retain investment capital. So what's missing there from an evaluation standpoint is sort of a how-much question--how much of those things did the Legislature hope to see from these programs? So we essentially, in the evaluation report, said, without that standard from the Legislature, what we could do is report the activities, so the number of businesses that had earned incentives, the amount of incentives they had used up to that point in time. So it's basic information, but we couldn't compare it to what the Legislature expected to occur and make any judgments or conclusions about whether the programs were meeting or not meeting or exceeding what had been intended. In addition, for the largest programs, there's no budget cap or limit on the amount of funds that can be committed to the incentives. So the breadth of the goals and the absence of any spending limits caused us to state that, by these standards, any activity could be deemed a success and any cost acceptable. So in response to that report, as Senator Harms mentioned, the Audit Committee committed to working with the Revenue Committee to initiate a comprehensive review of these incentive programs, and that's really what caused the introduction of the LR444 resolution that created this committee. In addition, in response to that evaluation report, the Performance Audit Committee asked us, the Audit Office, to provide some additional information on the tax incentive programs. So we issued two additional reports in 2013. One of them had comparative data for Nebraska and nine other states describing generally the overall tax structure in those states, as well as the incentive programs. And the second one provided ideas for possible metrics to use in evaluating Nebraska incentive programs and described some other states' methods for evaluating the programs. And as I've said, all of those reports, obviously, contain quite a bit more detail. They're available on the Web site for anybody in the room or listening who is interested, and we also have hard copies if anyone would like one. And in closing, I just wanted to clarify something that's been a question we've gotten a few times as we've talked about the work of this committee, and that is that the evaluation we're talking about is not...we're not talking about whether or not the individual businesses are meeting the requirements under the various acts because, as the committee knows, Nebraska has a performance-based program for tax incentives. And that means that the companies commit to do certain things in order to receive benefits. And the Department of Revenue audits those companies before they receive any benefits. So that process is already in place, and we're not talking about adding things onto businesses. What we're talking about is, as policymakers, what do you hope to see from these programs and are you seeing that, and that discussion of what the...how well the programs themselves are working, so just to be clear for people that that's what we're talking about with this committee today. So I would then introduce Kate to discuss just a brief overview or...? [LR444]

SENATOR HARMS: Yeah. [LR444]

MARTHA CARTER: ...of the Nebraska programs, the incentive programs. [LR444]

SENATOR HARMS: Okay, let's do that. Okay. [LR444]

KATE GUDMUNSON: Okay. I'm Kate Gudmunson, K-a-t-e G-u-d-m-u-n-s-o-n. Under tab 4 in your notebooks there's a little, brief summary of the programs that we've looked at. And as Martha said, we started out with the Advantage Act because it is overwhelmingly the largest incentive program in the state. But along with the Advantage Act were passed a few other small tax credit programs, and there's been a couple others added since then. So we've focused on tax credits in particular, and these were the ones that we looked at. So first in the notebook is the Angel Investment Act. Angel Investment provides a credit to investors in small businesses, particularly for high technology and in distressed areas. This is a fairly new program, just since 2011, but it has had some amount of participation so far and has produced about $7 million in investment with $2 million in credits. And almost all of those businesses have been in distressed areas. And that one is administered by the Department of Economic Development, so they put out reports on that, rather than Revenue which is the Advantage Act reports. So the next one is the Advantage Act, and the Advantage Act is, as I said, the largest program. It's tiered, so the qualification of businesses depends on which tier they're in, which determines how many people they have to hire, how much investment they have to make, and what type of industry they have to be in. The goals for the Advantage Act were a little bit more broad than for Angel Investment, which is a fairly targeted program. And nearly any type of industry can work into the Advantage Act in some way. So that one...for more information we'd have to refer to their reports because it is a very detailed, huge program. But the amounts of usage are...they're at the bottom. Another part of the Nebraska Advantage Act is microenterprise, which is specifically for companies with five employees or less. So that one has actually been a fairly popular program, and the amount is capped at $2 million. And the Department of Revenue has said that they reached that level of applications every year, and then it just...it's a first come, first serve. Once you apply, if you're approved, up to that $2 million limit, the companies get their funding. Next is research and development. That one is obviously for companies involved in research and development. And the amount of credits on that one is higher if they are on a university campus or a college campus but can technically be applied to any research-and-development businesses. Then we get into the rural programs. Rural Development Act is part of the same bill that covers the Advantage Act. It's another tiered program, but it's based on the size of the county as far as which level you're on, or livestock modernization, which does not have anything to do with population. This one has actually been declining in participation over recent years, so the funding has been reduced for rural development and some of that funding used to fund Angel Investment. And the last one we looked at is administered by the Department of Agriculture, and it's the Beginning Farmer Tax Credit Act, which provides funding...tax credits for farmers that will lease land to new farmers. So any kind of providing for people that want to get into farming can make them eligible for a tax credit, and there is also credits available for the new farmers. And at the bottom of each of those, we've put in some potential metrics from what we looked at last year when we were looking at what kinds of metrics we could use. For each one we looked which ones might work for those specific programs. Some things, like the Advantage Act, is a very long timespan and they can qualify for 15 years. It includes tax credits, sales tax exemptions, property tax exemptions. So there's a lot of aspects to that one that make a little bit harder to choose a metric, whereas the beginning farmer tax credit is a fairly simple program where you have more options for metrics. Any questions? Yes. [LR444]

SENATOR SCHUMACHER: On the Advantage Act, it says the total credits earned under those projects is $412 million. [LR444]

KATE GUDMUNSON: Yes. [LR444]

SENATOR SCHUMACHER: Now those are earned. Those are...they met their standards and whatever. How many are pending? [LR444]

KATE GUDMUNSON: Well, it would depend on the business, how many they'd used so far. But historically, of the amount earned, they use about 70 percent. So most of the businesses can't actually use all of the credits that they get. They just run out of tax liability, and it just covers all of their taxes. So they have some left over, and it's usually about 30 percent of the amount earned that gets left. [LR444]

SENATOR SCHUMACHER: So how many are committed to...if they earn it, what's the... [LR444]

MARTHA CARTER: The dollar amount, is that what you're asking? [LR444]

SENATOR SCHUMACHER: Assuming that 70 percent holds true, what's...what bill are we going to have? [LR444]

MARTHA CARTER: So at this time, do we know the dollar amount of credits that have been used? [LR444]

KATE GUDMUNSON: I don't know the amount of credits used at this point. [LR444]

SENATOR SCHUMACHER: Not used but committed. [LR444]

KATE GUDMUNSON: ...but committed, well, technically committed is $412 million. [LR444]

SENATOR SCHUMACHER: That's locked in, but that doesn't... [LR444]

KATE GUDMUNSON: That's how much they have earned. They... [LR444]

SENATOR SCHUMACHER: ...that have been promised to a business if they do whatever they're supposed to do. [LR444]

KATE GUDMUNSON: Yes. [LR444]

SENATOR SCHUMACHER: How much...and you say that's about a 70 percent rate. [LR444]

KATE GUDMUNSON: Yes. And so we expect them to not use all of it. [LR444]

SENATOR SCHUMACHER: So how many is out there in limbo waiting to become that 70 percent? I mean, what's our exposure? [LR444]

MARTHA CARTER: You would take 70 percent of the $412 million. [LR444]

KATE GUDMUNSON: Yes, 70 percent of the $412 million. [LR444]

SENATOR SCHUMACHER: So... [LR444]

SENATOR MELLO: I think what Senator Schumacher may be asking is, when companies apply, I think he wants to know how many credits have been applied for, so to speak, where this...I think this implies the $412 million earned, so they've met the threshold and we know we're...in theory, have a liability of $412 million now. If I'm misinterpreting what you're asking, I think he wanted to know how many people have applied for the total amount of credits that have been applied for in comparison to the amount that's been earned. [LR444]

KATE GUDMUNSON: Well, I'm not sure about how many have been applied for. But when we looked at this, we compared the application numbers to the amount that actually qualified, and there were a lot of companies that never qualified. So it's hard to use the application numbers for any kind of forecast because a lot of companies won't actually ever get any credits. They won't qualify. [LR444]

SENATOR HADLEY: Could I...I'm not sure this is the number. But we have a great report, and it's from the Department of Revenue. And we had a joint hearing--was it last summer?--I believe with the Revenue Committee and Appropriations. And if I'm reading the chart right, there's $313,499,000 of outstanding credits right now that potentially could be earned by companies in Nebraska. [LR444]

SENATOR SCHUMACHER: And that would be 70 percent of this (inaudible)... [LR444]

SENATOR HADLEY: We have $412 million; they're earned. And the total outstanding right now, so that's about 70 percent. [LR444]

SENATOR SCHUMACHER: And I guess the...where I'm coming from is, okay, those we kind of have an idea of what the bill is there. What about commitments that have been made under agreements that have yet to be earned? Is there a lot of them sitting out there? [LR444]

KATE GUDMUNSON: We would have to ask the Department of Revenue, who is...happens to be here. [LR444]

SENATOR SCHUMACHER: Okay, well, yeah. I mean, I'm not...okay. [LR444]

KATE GUDMUNSON: But, yeah, the amount...so you're asking about those that have been approved but they haven't actually been given any credits yet? [LR444]

SENATOR SCHUMACHER: Right. [LR444]

KATE GUDMUNSON: Okay. [LR444]

SENATOR SCHUMACHER: If we were to shut the program down tomorrow,... [LR444]

KATE GUDMUNSON: Okay. [LR444]

SENATOR SCHUMACHER: ...under existing contracts and deals that are in progress, what...how much would that...could we expect in credits to have to give out? [LR444]

KATE GUDMUNSON: (Inaudible)...if they have that for... [LR444]

SENATOR SCHUMACHER: Otherwise, we can get that later. I mean, I don't want to hold things up. [LR444]

KATE GUDMUNSON: Yeah. [LR444]

SENATOR HARMS: We can do it later, but let's...do we have the answer to that? [LR444]

MARTHA CARTER: We might need to get that. [LR444]

KATE GUDMUNSON: I'm not sure they have that right now. [LR444]

MARTHA CARTER: I think we need to get that later if we could. [LR444]

SENATOR HARMS: That's something we can get later because I think that's an important question to answer, kind of lays out...yes, Senator Adams. [LR444]

SENATOR ADAMS: Senator Harms, thank you. On the Microenterprise Act, given that the bar is not set nearly as high as it is for the Advantage Act, because it is capped, I guess I'm wondering what kind of scrutiny goes along with this act. And if a qualified business had five or fewer employees,... [LR444]

KATE GUDMUNSON: Um-hum. [LR444]

SENATOR ADAMS: ...well, is that it? [LR444]

KATE GUDMUNSON: I believe so. It's supposed to...it's targeted for economically distressed areas. [LR444]

SENATOR ADAMS: Right. [LR444]

KATE GUDMUNSON: That's the only real qualification. [LR444]

SENATOR ADAMS: So if I'm living in a county that is designated as economically distressed, that doesn't mean that I am, necessarily. [LR444]

KATE GUDMUNSON: No. [LR444]

SENATOR ADAMS: But if I'd like a chunk of $2 million in tax credits, I go start a business, which isn't all that difficult. And I have one employee and maybe it's my son, and I have six of these, by the way. [LR444]

KATE GUDMUNSON: It's also a limit on the individual businesses for this one. So, like, one company can't take all $2 million. [LR444]

SENATOR ADAMS: Right, right. But I guess what I'm wondering about, I'm sitting here speculating to myself, it really wouldn't be that difficult to get a chunk of that $2 million, would it? So it seems. [LR444]

KATE GUDMUNSON: As far as I know, no. [LR444]

SENATOR ADAMS: Okay, fair enough. Thank you. [LR444]

SENATOR HARMS: I think these are all really fair questions and these are all the kinds of things I think we have to answer to make sure that we have all that identified very clearly that these are...might be concerns that we have and making sure that it's clear that if we don't want to have this sort of thing happen, then we need to make sure that we draft legislation that corrects that. So...Paul. [LR444]

SENATOR SCHUMACHER: One question regarding Angel Investment. It indicates $2 million in credits were awarded. Now Angel Investment, that's a refundable credit, isn't it? So that was checks for $2 million that the state wrote, rather than a credit, is that correct? [LR444]

KATE GUDMUNSON: Well, it's... [LR444]

SENATOR SCHUMACHER: Unlike the rest of these, they're a credit against tax. Angel Investment is... [LR444]

KATE GUDMUNSON: It is still a credit against tax. [LR444]

SENATOR SCHUMACHER: But it's refundable. [LR444]

KATE GUDMUNSON: But it is a refundable credit. [LR444]

SENATOR SCHUMACHER: So you can turn in a tax return and get a refund. [LR444]

KATE GUDMUNSON: Yes. [LR444]

SENATOR SCHUMACHER: In other words, it's an obligation to pay out some cash. [LR444]

KATE GUDMUNSON: Yes. [LR444]

SENATOR SCHUMACHER: Yeah, and $2 million has been written out the treasury in cash. [LR444]

KATE GUDMUNSON: Yes. [LR444]

SENATOR SCHUMACHER: Okay. [LR444]

SENATOR HARMS: Thank you for your questions. Do you have any other questions? Senator Adams. [LR444]

SENATOR ADAMS: I should look more carefully. When you calculated the fiscal impact, that does include sales tax credits, including those to political subdivisions that have...so... [LR444]

KATE GUDMUNSON: Are you referring to Angel Investment or...? [LR444]

SENATOR ADAMS: No, I'm talking about Advantage Act. [LR444]

KATE GUDMUNSON: Advantage Act? [LR444]

MARTHA CARTER: Yes. [LR444]

KATE GUDMUNSON: Sorry. [LR444]

SENATOR ADAMS: Advantage Act, that doesn't include sales tax commitment, does it? [LR444]

KATE GUDMUNSON: It includes all tax credits, yes. [LR444]

SENATOR ADAMS: Great. Thank you. [LR444]

SENATOR HARMS: Do we have any other questions you'd like to ask? [LR444]

SENATOR MELLO: I apologize, Senator Harms, for stepping out quickly. And it's maybe more of a question we can ask later: Are these the only...are these anticipated being the only programs or incentives/tax credits that right now we're anticipating to evaluate or explore? [LR444]

KATE GUDMUNSON: Well,... [LR444]

MARTHA CARTER: I think they're the only ones in that resolution. [LR444]

KATE GUDMUNSON: Yes. [LR444]

SENATOR MELLO: Okay, okay. [LR444]

KATE GUDMUNSON: We have limited... [LR444]

SENATOR HARMS: Yeah, they're...the only six that are listed are the only ones we're going to evaluate. Okay. [LR444]

KATE GUDMUNSON: We're limited to tax credit programs, but there are additional, like grant programs, tax exemptions, other sorts of incentives that aren't included. [LR444]

SENATOR HARMS: And that would take another resolution and...which you might want to do, to review that and, you know, another summer of it. What we're going to focus on are just these six. Okay. Do you have any other questions? Yes, Senator Hadley. [LR444]

SENATOR HADLEY: Yes. I'd like to follow up on that. I think it is something that we need to look at, and I will give you two examples. We had Senator Davis' e-mail that talked about tax increment financing and how that is working. And obviously, that impacts TEEOSA, so we certainly do have a stake in that. And this past year we put some additional money into job training. And I think it would be very appropriate to have metrics and what the expectation is for that. And I realize that we can't; there's no reason to get into it this summer. But for a future time, I think those are two areas that the Legislature certainly could look at in terms of metrics and recommendations as to whether they're doing the job or not. [LR444]

SENATOR HARMS: Yeah, I agree with you, and this...those are kind of, I think, outside of this particular resolution. But it's something we want to focus on. I think when we get done, at the end we should make a list of the other sort of things we want to take on. And then those of you who are going to be returning, we could pursue that. But I think this is important for us to get identified. [LR444]

SENATOR HADLEY: One last point: It might be well for the...I don't know whether the committees had access to this. But this is the report, and the latest one was July 15,

2013. But this is the annual report to the Nebraska Legislature on the economic development acts. And if you don't have this, it would, you know...it really is a good summary. [LR444]

SENATOR HARMS: A good tool to use. [LR444]

SENATOR HADLEY: Yeah, so... [LR444]

SENATOR HARMS: Maybe we could make sure that we could get copies of it made. [LR444]

SENATOR HADLEY: ...make sure that everybody has that, because it has a lot of data (inaudible) what... [LR444]

SENATOR HARMS: Yeah, and the...all the committee members could have had one. So that's a good resource to look at. So do we have any other questions you'd like to ask? Well, the next phase would have been Bob would have taken over. And if you can go to, just for just a moment, to index 3. If you take a...if you haven't had a chance, and I hope you will take a look at the proposal he gave us in regard to how to measure the results of tax incentives, there is some great data and information in here. And this should make it much easier for us to follow and the guidelines to use and how to go about that whole process. And then his presentation was based off of this document and how Nebraska can actually use this information to develop the kinds of policies that we would like, the goals we would like, and a way to measure those and a criteria for it. So if you haven't had a chance to review that, before we have our next meeting I hope you'll take that time to do this and...because it's just...it's really good. I've gone through and I've read it and it makes it much easier and I understand it much better than I think I ever have before in regard to this aspect of it. So I think now what we'll do is have our staff maybe walk through the presentation. It will not be in the depth that we would hope that it would have been with Bob not being here, but we will pick that back up in July and have a...go back over that in greater depth. So, Martha,... [LR444]

MARTHA CARTER: Thank you, Senator Harms. And I would echo that, that I think what Kate and I can do is competently give you the gist of what Bob and the Pew Center folks have outlined in terms of the way you may want to approach this work. And unfortunately, what we can't do, as well, is give you some of the depth in terms of that...the document that Senator Harms referred to contains numerous examples of different kinds of metrics or different evaluations that have been done on selected pieces. And we don't have that level of knowledge right at hand. But I think the important thing for this committee to consider as you go forward is that there...one of the things that I know Bob was going to say was there are many ways that you can look at these programs. There are many different types of metrics you can use and many different studies within those types of metrics. And so really the important thing is always going to come back to: What is it that you believe is most important; and what are the goals that you believe these programs should be fulfilling; and what information do you want to know in order to answer that question? So to start out with, the...yeah, that would be great. So the way Pew has outlined this is there are five key issues that they would see this committee looking at. And just to go through them briefly, one is to design a strategic evaluation schedule. The next one would be to identify metrics. The third is to collect and assess relevant data. The fourth is to determine what office should conduct the evaluation. The fifth is to make some decisions about to what extent you want to use economic modeling in your evaluations. And the last one is to be sure that the evaluations inform the policy process. So the first one, designing an evaluation schedule, a little bit about how other states have done this: It's common for states to require all tax incentives to be evaluated every three to five years. It's common to develop a multiyear review schedule; in other words, you don't review all of your incentives in one year; you spread it out a little bit. It's common to evaluate incentives with similar goals in the same year and, if you can, it's helpful to schedule your evaluations so that they correlate with any sunsets that exist in your statutes. So in terms of... [LR444]

SENATOR HARMS: Martha, I wonder if we could stop right here just for a minute. [LR444]

MARTHA CARTER: Yes, sure. [LR444]

SENATOR HARMS: One of the things...I want you to focus on the fact is that, whatever we decide to do, I think it's going to be very important for us to have some dialogue with the Revenue Department to make sure that if we're going to be requiring other sorts of information and data that we need to have an open discussion with them and making sure they're staffed appropriately to do this. Okay, now there is a lot of reports that are available, and it's going to be...whether we're going to have the ability to bring all that together. And you can evaluate it, but it may change the staffing pattern just a little bit. I just want to bring that up to your point that you don't want to go into this blindly and then put a lot more pressure on them where they can't perform at the level you would like. And keep in mind that we, as a Legislature, has created the environment that we're in. And so we want to make sure that, as we go through this, that that dialogue stays open and that we make sure that we have them staffed appropriately so that you can get the kind of reports you need. And we may not need any other kinds of adjustments, but I want you just to think about that and be careful as we go through that. And also we need...we'll need to identify through the Revenue Department all the other kinds of reports that are available, okay. And just to go through and pull all that out and to make it so that it's easier to follow and identify may take a little bit different type of staffing. So I just want to bring that to your attention. I'm sorry, Martha. Go ahead. [LR444]

MARTHA CARTER: That's fine, absolutely. So then in terms of how Nebraska might address this strategic evaluation schedule question, Pew is suggesting a review every...on a multiyear schedule, and they are in fact suggesting that the first review would not take place until 2016 in order to allow for the startup preparation. They're suggesting that we would schedule incentives for evaluation so that they are grouped by similar goals; and the goals that they have outlined are the ones that were in one of our reports. They're essentially the goals that we gleaned from the statutory language and the legislative history on the acts that we looked at. So there are three broad goals. One is just a general strengthening the state's economic...excuse me...economy overall. The second is revitalizing rural and other distressed areas of the state. And the third is to stimulate entrepreneurial, high-tech, and renewable energy firms to diversity the economy. So here's the proposed schedule that would allow for reviewing the incentive programs every three years. And the way that they've broken down...in the far-right column you'll see the way that they've broken down the programs. So one thing that's very, very different from the way we all are used to looking at these programs is they are suggesting breaking up the Advantage Act reporting so that it would be part of those...it would fall under the different goals, those broad goals. So instead of taking the Advantage Act as a whole and saying, what is the goal or goals of this program, what are the metrics specific to this whole program, and doing the evaluation based on that, they're saying, okay, some of the goals of tiers of the Advantage Act relate to strengthening the state's overall economy, so let's pull those out. And the way they have recommended doing that, it would essentially be Tiers 1, 3, 4, and 6, and you would do your evaluation of those tiers at one time. And you would do it against that goal of strengthening the state's overall economy based on metrics that this committee then would come up with. Then the second group would be the incentives that are intended to stimulate different types of firms. So that would include Angel Investment, the research-and-development tax credit, Tiers 2 and 5 of the Advantage Act, which are targeted to the high-tech, renewable, and entrepreneurial programs. And again, you would consider your evaluations on that and, similarly, the last group would be looking at the programs that particularly have an impact on rural and distressed areas of the state. So that's a very important thing for this committee to consider. Is that the way you want to go, or have you been envisioning this more that we were going to be looking at individual programs in developing the metrics related to those? [LR444]

SENATOR HARMS: One of the things I'd point out to you in our discussion yesterday with the Revenue Department is that businesses are a lot...all at different levels, and they can go from one tier to the other tier. And so it's not as simple as originally I thought it might be. So you have to really be flexible enough as we design this system that we can keep track of and measure appropriately because they do move. And so I found that kind of interesting. And so as we look at this, we just want to understand that it's not all very simple and people are all different levels. And like I said, they go from one tier to the other tier, so just keep that in mind as you look at this and as we go through this. So do you have any questions? Go ahead. [LR444]

SENATOR HADLEY: Thank you, Senator Harms. Martha, we're talking about an evaluation schedule. Since ours is a performance-based system, right, in essence, we set up what we feel the goals and objectives...and we set up measurement processes to see whether or not companies meet these--hire so many people, make so much of an investment, wages that, depending on the credit, depends on how much of a credit they will get for the wages they pay. So haven't we really in some way set up an evaluation system because we've set up the criteria that we think, if the company meets these, it will be successful for Nebraska? So where in here do we look at the criteria that a company needs to hire 30 employees? Under Advantage Act (Tier) 3, just as an example, where do we look at that, because it seems to me that that's a key point. If we're saying to a company, if you meet these criteria, we will help you, so in setting the criteria we have to be careful that those really become something that's important for Nebraska. Does that make sense? [LR444]

MARTHA CARTER: Absolutely, Senator Hadley. And I think those do need to very much be part of what is reviewed and reported as some of that is at this point. I think what we're talking about more is, are there other...well, one example that I think is a kind of an easy one when you think about the goal of helping rural areas or economically distressed areas...so when we did the report on this, we reported how many of the new businesses were in rural areas. Okay, so...but you don't...there's nothing right now in statute that says we hope to have this much growth or we would know...I mean we know the...there are businesses in rural areas that are receiving credits. Do we know how much impact that's actually having? Do we know whether the programs that are existing now are producing the kinds of effects that the Legislature would like to see or whether there might be some other kind of program that works better in rural areas, those kind of questions. So I don't think...I think you're right on target in terms of one of the key pieces of information that has to be a part of this discussion. But I think the piece that's been missing is that broader view of...yes, those activities are happening; those companies are meeting the statutory requirements. We know that. What effect is that having on the...how do we measure the effect of those actions? And what metrics are we going to use to do that? And there is no one right answer, as you well know, to any of these questions. There's a...there are a variety of ways of looking at things that bring out different slices, if you will, of how things are working. So did you... [LR444]

KATE GUDMUNSON: Just to add to that, like Martha said, that's more of, like, the individual company goals, but we want to look at the impact of all of the companies at once. So if you were looking at, like, goal one of strengthening the state's economy, we could look at, like, a comparison of Nebraska's growth to the national growth. So how are all of our companies together working to achieve that goal that are receiving these incentives? Or if we're going to benefit rural areas, if our goal was to increase population, how has our rural population changed in the past three years since they've been receiving these benefits? So it's more of a collective goal rather than an individual company goal. [LR444]

SENATOR HADLEY: Well, I would agree with that, that we set individual goals. But the summation of those individual goals becomes the impact of the program, right? [LR444]

KATE GUDMUNSON: Yes. [LR444]

SENATOR HADLEY: If you add up all the companies, and I think someplace in there it says, like, that there have been 8,000 or 9,000 jobs created from the Department of Revenue report through the Advantage Act, that is the summation of every one of these companies that have attained. And so I guess what we have to ask ourself: Is that...are the 8,000 or 9,000 jobs worth what... [LR444]

KATE GUDMUNSON: Yes. [LR444]

SENATOR HADLEY: ...we gave up? [LR444]

MARTHA CARTER: And just to follow up on that, in addition, the decisions that you can make as policymakers are: Is that enough information, there are that many jobs created? If it is, then fine--we're done. [LR444]

SENATOR HADLEY: Um-hum. [LR444]

MARTHA CARTER: If, on the other hand, do you want to know, are those jobs that are going mostly to people in Nebraska versus people coming in from out of state, or those kinds of questions and each one...every time I mention something like that, there are going to be 100 qualifications on...again, there's no easy way to identify exactly who came in from out of state and all of that. But if you read the information from Bob, you will see that there have been a lot of studies on those different kinds of aspects that can help you get some idea of how much those kind of things are happening. But that's why I say it all comes back to: What do you think is sufficient to know about those jobs. Do you want to know if they're all full-time jobs? Are some of them part-time jobs? Do you want to know how long those jobs last? Again, no easy answers to those things, but people have looked at them and can give some educated guesses to help you better know what those impacts are. But it totally comes back to: What does the Legislature believe is important to know about those things? [LR444]

SENATOR HARMS: The other thing you'll have to keep in mind is that we have agreements and contracts with those companies. And so as we go through these changes, some of that is going to take a longer time to get through so...and we can't change it in the middle of the stream in the agreements with them. So we'll just keep that in mind as we go through this. Long term, it'll eventually catch up, and we'll be where we want to be and you'll know for sure. But we want to be careful not to change the directions for people that already have qualified, so they can complete out their process. Yes, Paul. [LR444]

SENATOR SCHUMACHER: Thank you, Senator Harms. But if they look at it this way, say, okay, we're going to set up a basket of these credits and then we're going to give them to some companies and then we're going to see how much investment they made or how much jobs they created and if it reaches a certain level we're going to declare a victory, that really doesn't tell us much, though, unless we compare those to the level of performance of nonincentive businesses similarly situated because we can say, well, we created 7,000 jobs and, gee, you know, we're wonderful. But if the nonincentive economy performed a whole lot better, then our conclusion that we should get out the band and declare victory is wrong. We need to compare this group against a nonincentive economy to get a sense of how effective these are, too, I think. [LR444]

KATE GUDMUNSON: And that could be one of the metrics that you want to consider if you want to look at that. [LR444]

SENATOR SCHUMACHER: I'm just tossing it out because just to say we met the goals doesn't tell us whether there was causation. [LR444]

SENATOR HARMS: I would just tell you, this is great dialogue. I want you to keep that dialogue up because, when we get to the end, these are the very things we're going to answer. The very things that I think you're bringing up are questions that other people have that we've had on the floor in regard to these issues. So thank you very much for asking these questions because I think it's important for us to get people's feelings and views. And the staff then can actually develop. And when Bob is here and we have some metrics and goals already identified for us, then we can start this whole process of actually getting to the questions you're asking. So it's good dialogue. Thank you very much for asking the questions. I think it's important. [LR444]

MARTHA CARTER: Thank you, Senator Harms. And it's the perfect transition to the second item on Bob's list, which is identifying metrics. And I think by far this is the most complicated, most challenging piece of this whole process is going to be deciding what the appropriate metrics are. So what Pew is suggesting is that the committee agree on a set of guidelines for determining what the metrics...which metrics are appropriate. They are suggesting...and we've had some dialogue with them about how this would work logistically, but they are suggesting that the...whatever entity is conducting the evaluations would the year prior to that set out the specific metrics that were going to be used, and then allow...they are also suggesting that a special committee would be set up and essentially allow that committee to have hearings or in some other way to reflect back to the staff on whether or not those metrics are acceptable or the appropriate ones. So there's a little bit of logistics about how that would work. But the idea would be to have something out there, and then the committee would be able to have some comment. So just to go briefly through some of the ones that they've discussed in terms of each of the...those broad goals that were outlined, so under the "strengthening the overall economy" goal, one of the things that they outlined is to focus on outcomes that affect the well-being of state residents. And so an example in their report is that when you look at jobs and investment you might also want to look at indirect causes or impacts on those areas. For example, Washington state did an evaluation of a research-and-development program, and they found that research-and-development effort increased the number of jobs. And what I'm giving you...when I explain something like that, I'm giving you everything I understand about that evaluation at this time. So I apologize, but I'm trying to use some of the specific examples to give you a flavor of what they're talking about. So the second item would be calculating fiscal impacts but not to the exclusion of economic metrics. So in other words: Don't look at just the cost, if you want to view it that way, in terms of revenue that was foregone to the state, but look at things like the new taxes paid by those new employees and businesses, on the other side maybe what does it take to administer that incentive, should that be factored in, some of those kind of questions. And in terms of jobs, if what you want...if what your goal is, is to have quality jobs, then you need to define what that is and, for example, do you want to consider not just the salary but also whether benefits are provided, those kinds of ideas. So under the second broad goal of revitalizing rural and distressed areas, obviously, you would want to consider whether the incentives are reaching their target areas. And the sets...so if it's a targeted geographic area, are the incentives really being used in that area? You would also maybe want to know whether the people or to what extent the people living in the area are benefitting. So he used an example of a Maryland evaluation that looked at the skills needed for the jobs that were created, and it found that there was a tremendous gap in the skills of the people who live in the district versus what those jobs were. And so then the suggestion is: Maybe you also need to boost your job training in that area if the goal is really designed to improve the jobs for those people in the district. And thirdly, and when...and we've discussed this a little bit: When comparing geographic areas, use those broad indicators with caution. It's tempting to say, we have one area here that's received the incentive and one area here that hasn't received the incentive, let's compare some big macro-level economic indicators. And there's nothing that says you shouldn't do that. But if you do it, you need to do it cautiously because there may have been factors in that nonincentivized area that also played a role. So you'd want to try and take those into consideration. So then, thirdly, for the stimulating entrepreneurial and other, more specific types of firm development you'd want to consider looking at the business outputs. And one of the ideas that they suggested in that regard is the number of patents that come from those new businesses, and the logic being, if you are in fact spawning new research and development, that ought to be one of the outcomes that you would expect to see. And another just very basic one would be of those firms that you're incenting, what are the survival rates? So in other words, what's the length of the payback on the investment that you've made? You could also study whether the state incentives are helping businesses receive financing from other sources. So in other words, the dollars that the state is putting in, are those businesses then going on to also receive maybe federal funding or additional venture capital, things that might suggest they are thriving more than businesses without that additional money? And the...with job creation you want to look at that, but you want to also consider over the...not just the jobs created at one point in time but maybe over a longer period of time. So for Nebraska, the suggestions that they made would be that this committee might want to establish guidelines. And I'm not going to read you all the guidelines, but they do have...Bob does have them outlined in the report that Senator Harms mentioned earlier. So...and it's very much what you would expect it to be. Your metrics, you want to reflect the goals of the incentives, you want to consider what data is available--again, something Senator Harms mentioned. There is a lot of reporting already, and so we want to work to see how that can fit with the...with exactly what you want to know. Use clear and consistent definitions; coordinate so that you can compare between programs with similar goals; and to look at economic impact. So those are the guidelines that Pew is recommending to start with: consider the...sorry, wrong slide. And then the second bullet is what I mentioned earlier. This is the idea of, before beginning the evaluations, the analyst conducting it would create an evaluation plan that outlines the metrics they plan to use and then offer legislators an opportunity to comment through hearings. So potential guidelines...oh, I'm sorry, I didn't realize we had that right here in the slide. So I went through those already, what your potential guidelines would be. So we can move onto...the third key issue is collecting and assessing relevant data. The key issue here is: Whoever you choose to do these evaluations has to have access to the detailed information that is necessary to do the analysis. That is...has to be equally balanced by the fact that, if you're talking about confidential business information, that there's just no question that those evaluators have to be bound by that confidentiality. And, for example, in our office, we are right in there with the Revenue Department staff and the tax statutes and just as eligible for felony conviction if we would disclose that information as they are. So it goes without saying that however this would move forward, whoever is going to have access to that information has to have that same level of potential punishment for disclosure.

But interestingly, there are some states that...where the legislative branch has much more access to information. Florida has an entire legislative staff Office of Economic Development (sic) and...I'm sorry...Economic and Demographic Research, and they have quite extensive access to tax information. And another example of a way to get access to that information if...but not within the Legislature necessarily is North Carolina allowed a university research center access to tax information to do these studies. The second bullet required businesses to provide data. That is happening now. And as we've discussed, there's quite a bit of data that they are already reporting. There are also some states that have statutes that require cooperation and sharing of information. There's a Louisiana law that requires that the department of economic development be allowed access to a certain amount of the tax information for their management purposes. The last bullet on this page is, I think, one that is...would be a really useful one to keep in mind as we move forward with this project, and that is, does there need to be a comprehensive review of the existing reporting requirements? It seems like it could be very helpful as metrics are being developed and we're looking at what is already being reported to take a look at, is there a duplication in some of the information that's being reported, or, is there information that's being reported that is not being used by policymakers? Maybe there's a way to...I think there is a fear that there is either...there will be new reporting requirements, and maybe we balance that a little bit by saying, well, let's really study what is taking place now on whether we still need that. And then lastly, on the data point, we...as the metrics are developed, we need to decide what information we will need. One thing that we know already is that some of the tiers of the Advantage Act have very few participants right now. So if you were to go to an evaluation model that broke up the Advantage Act, there may be some of that information that is not reportable until there are enough businesses to protect confidentiality. So that's just an example of how the evaluation is constructed interplays with the data that's available. So the fourth key issue then is to determine what office should conduct the evaluation. And I admit to feeling a little bit of a conflict of interest here since they do suggest that our office be highly involved in this. So I will just remind you that what I'm reporting is what Pew suggested. They have four characteristics that they think are important for the evaluation office. One is experience at program evaluation. One is experiencing...I'm sorry...experience measuring economic impact. One is a nonpartisan perspective, and the last is a willingness to make policy recommendations. Most of the states that they refer to in their report, it is...the audits are conducted either exclusively by legislative staff or by legislative staff in cooperation with someone else. A couple of them are actually conducted by their tax collecting agency. One is connected...sorry...conducted by their economic development agency, and they give an example of Mississippi uses outside experts in that they rely on their university research center. And the last bullet there is hybrid approach, which is what they're suggesting that Nebraska consider. So what that would look like would be the Legislative Audit Office would take the lead, and the thinking there is that we do program evaluations, nonpartisan, and make policy recommendations. There would be other agencies involved, obviously, in data collection and sharing--Revenue, Economic Development, certainly. The area in which we are not currently skilled would be measuring economic impact. And so the question then would be how to incorporate that, and that could mean either that we could develop that expertise, we could partner with the Department of Revenue, or we could partner with a university or consulting firm for that piece. So that would be if you choose to have...if what you would like ultimately for your evaluations to look like includes something like the train modeling that the Department of Revenue does or one of the other programs that do that, that's an expertise that we would have to develop or contract for, which leads into the next bullet point in terms of your key issues, which is: Do you want that additional information? And they go through in some detail some different options for, you know, pros, in terms of using that information. You can run different kinds of scenarios to get ideas of what kinds of impacts different changes would give you. Some of the models can be customized to Nebraska's specific situation. The cons are basically that it is a very technical area, and so you've got to have somebody...that is not something that what I would call our audit capacity is currently staffed to do. We don't do that kind of economic modeling. The Fiscal Office certainly has had that responsibility in the past. That would be another option for how that might be developed. So some of the different ways you might look at that on the next slide then would be to what extent...and these are all...these are now the really tough issues to get at: to what extent did the incentive change a business' behavior. So using the modeling, again, you can come up with some ideas about how that might have impacted the business' decisions. They also gave an example of a Minnesota study that did not use economic modeling and instead looked at how much did the business actually...how much of their tax was actually reduced in terms of proportion of their tax. And then they used research that estimates the number of jobs that were created and put those two things together to come up with an estimate. Again, these are all estimates. They will give you different ways of looking at ballparks. I'm not purporting that any of these are precise, are going to give you a precise number to the...answer to these questions. The second one would be: Did the incentive produce a net economic benefit? There was a...using economic modeling, the Minnesota legislature looked at whether or not the jobs were filled by people from Minnesota; and, without the modeling, Louisiana looked at whether jobs that were created in enterprise zones were in fact...were actually taking business away from existing businesses and, therefore, causing a reduction in jobs because those existing businesses were impacted negatively. So...and then the last one would be: It is the incentive achieving the goals in the best way compared to alternative methods? So to the extent that you can use modeling or other ways of estimating what the results would be if you invested the same amount of money in different scenarios, that gives you an idea of... [LR444]

SENATOR HARMS: I wonder if we could stop here to see...do you have any questions so far? I think, as you see how Bob has laid this out and how Martha is trying to walk us through this, it is not going to be easy. There's just so many variables here. And originally we were thinking about bringing someone from another state in to take a session with us. But each state differs so much that we just felt it would be...it would not be very valuable and may turn out to be more confusing for all of us then to do that. But I want you to understand that, as we lay this out, as you see what's taking place and what our options are, it's not going to be easy. And we have to think through it very, very carefully because the...again, I want to reemphasize the key to...the point is that we want to keep our economy strong and we want to be competitive with...yeah, with other states. And so as we look at this, we need to make sure that what we do is appropriate and that the metrics that we create and the goals we create we can measure and we can answer the questions that you would like to have answered, as (inaudible). So do you have any questions at this point? John. [LR444]

SENATOR WIGHTMAN: Thank you, Senator Harms. I think everyone knows that some of the businesses that come here probably would have come here without the tax incentive when...but since the tax incentive was there, they applied for it, and so the jobs probably would have been created anyway. Is there any way of determining how much of that happens? [LR444]

MARTHA CARTER: Not with any certainty. There certainly have been...we looked at several reports where there had been surveys of businesses. And what you would expect, what I expected anyway, was that the businesses would say, well, of course, without the incentive we wouldn't have come. There are actually a couple of Legislative Audit studies where businesses said, yeah, it wasn't the deciding factor. But I think the reality is that it's kind of a nonstarter question because everybody...most states have incentives; businesses, as we understand it from talking to the Department of Economic Development, do a lot of their own research before they even talk to somebody in a state about coming to the state. And so in all likelihood there are...in many cases, businesses have already looked to see what the incentive environment and everything else looks like and make decisions at that point. So you can't even survey those people because you don't know who they are. So I think it's the question we all want the answer to, but it's virtually impossible to answer it in any certain way. [LR444]

SENATOR WIGHTMAN: I understand that. But obviously, we probably all know that exists, so... [LR444]

MARTHA CARTER: Maybe if Bob were here he could say yes. So I could...I'll check with Bob. [LR444]

SENATOR HARMS: Senator Hadley. [LR444]

SENATOR HADLEY: I guess the one word of caution that...as we go through the summer and come up and look at this, from our experience on the Revenue Committee and working with tax proposals and working with businesses just on normal tax changes and such as that, one of the things that businesses look for is stability. One of the favorite things they tell me is that, we don't mind if you change the tax code and it costs us maybe a little extra money, but don't do it every year to do it. So I think we have to be careful that we're not setting up a system where we're going to be changing the incentive programs quite often because I think that sends a message to business. I don't know what they're going to...you know, if you're planning in advance and we're sitting here thinking about changing the incentive program, I just think we have to send a message that we do think they're positive, we're fine-tuning them. We want some data to show that. But I think, if you look at all the indicators, whether it's jobs created, capital, you look at all the other things, nationwide companies or reports that rate Nebraska in that it's a business climate, we do pretty darn good. So I think those are also indicators that some of these things, you know...and lastly, the key question is what John asked, that, you know...and I agree. There's no way to get that answer. But I'll guarantee you, there are 50 other states that are in this game. If you just pick up the Chicago Tribune, eBay is coming to Chicago and they guaranteed 212 new jobs and $30 million in investment for a $12 million tax break, made the front page of the Chicago Tribune. So we're competing. It's like a nuclear war: Unless everybody stands down, we've got to compete. And how are we doing? I think the idea of making sure we're competing in the right way is what we should be dealing with. [LR444]

SENATOR HARMS: Thank you, Senator Hadley. And that's exactly what our goal is, is to make sure we do that. [LR444]

SENATOR HADLEY: Yeah. [LR444]

SENATOR HARMS: And that's up to us as committee members to make sure that that...when we do this final report that we all feel comfortable that we are headed in the right direction and that we're going to keep Nebraska competitive and strong. And that's why my opening comments were that it's not to get rid of these, it's to improve them, and it's to find a way that we can just measure it. And I think we have to be careful of how much statutory changes we make here that...because all that has ramifications. And so I think you have to...we have to be...we have to talk to the Revenue Department a little bit because I think they probably have a better understanding about some of this even though they won't get into the inner workings for us. But they can tell us about the overall policy-side suggestions. But they won't make those final recommendations. They'll just give us the date and we'll have to work through that ourselves. That puts them in a tough position. But I think you're absolutely correct. [LR444]

SENATOR HADLEY: One last thing, Senator Harms. You know, we talk about the Revenue Department but, you know, to an extent, they're the scorekeeper. I mean they are the ones that are...you know, the companies go to, they audit, and such as that. We need the Department of Economic Development at the table because they're the ones that are out talking to these firms and getting firsthand information of why are you...you know, why are you deciding to go here, what impact. So we certainly need...besides Revenue, we need DED to be at the table giving us help as to what is working, what is not working. [LR444]

SENATOR HARMS: One of the things that I think is important for us to keep in mind, and I can only focus on rural Nebraska because I, you know, have not worked with the urban portion of it, but I think one of the reasons...when you look at the programs that are kind of...that are available for rural, they're not being used very heavily. And I think some of that is because they just simply don't understand it and they don't have someone who can write the grants, and they don't have someone who is on the frontline. We have to think a little bit about that, and I think we have to think about making sure that we have people going into the field throughout Nebraska letting communities know what's available for them. They just don't. And in small rural communities and even the community that I represent and some of those smaller communities, there's turnover. If you have anything at all in economic development, there's a turnover with that. They use these smaller communities as a springboard, and they're there for a short period and they're gone, then that big gap is in there. And so I think that's one of the things we have to make sure that all of Nebraska understands what's available to them. Right now I don't think we really do. Senator Schumacher. [LR444]

SENATOR SCHUMACHER: Thank you, Senator Harms. One of the metrics I'd be interested in seeing is comparison of the numbers between the businesses which we have a 0 percent corporate tax rate on, basically, the LLCs and the Subchapter S corporations, which would be qualifying for these various programs, and the C corporations which we have this reasonably high, 7.81 percent, tax rate on. Are those two different forms of businesses responding differently to these credits? [LR444]

SENATOR HARMS: Thank you. Any other questions? Martha, we did visit with the Department of Economic Development. We...Senator Hadley, we did have them as one of our program...part of our program and stockholders that we did visit with them. But now there's a turnover there, and so we'll have to probably revisit again. But we did talk to them and I think they have an interest, they understand that this is really important for us. So do we at this point have any other questions you'd like to ask? Want to go ahead, Martha, then? [LR444]

MARTHA CARTER: So just to wrap up then on the issue of economic modeling, the recommendation is to...the recommendation for Nebraska would be to ensure that the office in charge of evaluations has access to the...to economic modeling either in house or outside and providing the evaluators on whether and how to use it because, again, as a pretty labor-intensive tool, you don't need that for every evaluation necessarily. So then the last point on Bob's list of key issues for this committee would be ensuring that the evaluations inform the policy process. And the ways that other states have done that have been to hold hearings on their evaluations. Some require legislative recommendations. And others incorporate the results of the evaluations into the budget process. And for Nebraska, what Pew is suggesting would be creation of a new legislative committee to oversee tax incentive policy, and that committee would have a composition similar to the LR444 Committee, to have that committee hold hearings on the evaluations and then make recommendations to the full Legislature. So that really was the end of the...Bob's formal presentation, and I think...I'm sure, were he here, you'd have had more discussion of some of those points. But it ultimately kind of brings you back to the six points that they've outlined as what they suggest in terms of how this committee would proceed. [LR444]

SENATOR HARMS: Well, Martha, I want to thank you, because you were at the last minute scrambling, and I appreciate it. I thought you did a really nice job. And we'll have Bob here in July to maybe go into greater depth. And in July, as I said before, we will bring before you, hopefully, some goals and some ways to measure that and how we might want to do that. I'd kind of like to open up for just a few moments, and then we'll stop the streaming here, take a ten-minute break. And then we'll come back and discuss other kinds of information you'd like to have so we can start to put all that together for you. And then I don't think we'll have to meet after lunch because it's...this is a little shorter than we had anticipated. So the question that I have for you that I'd like to have you consider just a little bit so we have a little bit of time this morning about how do we...how would we want to put together a committee; or should it be a part of the Revenue Committee; or where should it be in regard to...after we put this together, do the evaluation that's the stimulator that's always going to be involved in this whole process. Is it going to be Appropriations? Is it going to be a combination of people from each of those representatives? I don't know. But I think that's important. And the one thing that I do not want to have happen is we create a problem over that, that we make sure that we are not in competition with our other major committees. I've always been very sensitive to that, particularly on the planning side in the Planning Committee. We've been very sensitive to that whole issue. I just want to make sure that we don't step into something that we'd create a problem for. So I'd just kind of like to open it up, see what your thoughts are. [LR444]

SENATOR HADLEY: Senator Harms, thank you. I guess I probably would not sign onto another committee. I think we have a lot of committees as is. And what you run into if you get another committee: Are they going to handle then the things that come up in a session that when somebody brings a bill that, for example, would add another tweak to Tier 3? Would it go to this new committee? Would it go to the Revenue Committee? So I think, to me, the Revenue Committee is the appropriate committee to look at this because they set in motion these acts. And I...they're tax policy act. And so that's the committee that we have that works on that. [LR444]

SENATOR HARMS: Yeah, I think I've always been very sensitive to this. And the thing about it is: Our committee structure we have today, we're very protective of this. And I know that when we started the Planning Committee, one thing that people asked me on the floor: Are you going to start introducing legislation to take away from us? And my reply: Absolutely not, it's coming to you, and if you don't want to do it, we'd be happy to draft it or we could draft it for you and you can do it. I think that's what we want to protect is making sure that the committee structure that we have and the one-house system is continued to be protected. I just don't want to see that eroded because I think that's the strength to a certain degree of a one-house structure. [LR444]

SENATOR MELLO: I'm going to share maybe a slightly alternative perspective than, I think, Senator Hadley. I think, before we come to a consideration of where this policy area of evaluation falls, and I think part of it's dependent upon whose staff...like the staffing, the general, I think, process itself, I mean, I think, of anything I took from the

Pew Center report is that their recommendation of the Pew Center is that Performance Audit staff are the ones that they recommend should be doing this evaluation from a professional perspective. It's not us legislators who are sitting down, crunching the numbers, so to speak, doing the evaluation. It's the professional staff doing it. I think that really is the determination of if it's going to go to an existing standing committee, if it's going to go to one of the existing select committees, like Performance Audit. This is obviously a unique committee that involves Revenue, Appropriations, and Performance Audit. I think, really, before we wholeheartedly say it's got to go to one area or another, I think that really the first determination is: Who is going to be the professional staff doing it? If it's the Revenue Committee staff who are going to be in charge of it, then if that's our determination, then it kind of seems like it would be a very commonsense thing to say, well, if the committee staff is going to do the evaluation, it should stay within that existing committee. I think if we're going to put...our Performance Audit Committee staff is going to be the ones in charge of it, I think to some extent you've got to involve some people from Performance Audit regardless of if you're going to involve their staff as part of this process. But I think Senator Hadley's point is this is a general Revenue Committee policy issue. I'm cognizant. I think we're all cognizant of that. So making sure that we protect the integrity of that committee and their involvement is one thing. But I think before we make that determination, it really is: Who is the staff who is doing it first? Then you can make that committee selection of how you make it work out. [LR444]

SENATOR HARMS: The only reason I'm bringing this up, because I know it's going to be a...could potentially...could be a problem. So I want us to think about it. And it would not be unusual, because we've already done this, Senator Hadley, where the Performance Audit Committee staff worked under your committee when we were doing the taxation and this very question that we had before where we did all the work for them and then submitted all back our findings to them and then left it with them. And that may be another way that we can do that. If...I think we just don't know for sure until we put all the measurements down and the goals down. And we don't know how long this is going to take us and we don't know how in depth it's going to be. We don't know what kind of pressure it's going to put on the Revenue Department. So I think all of us have to sit down after we get done with this and then lay out how that would be handled. But I know it's going to come up, and so I just wanted you to start, before we get very far down the line, just start thinking about this, mulling it over in your mind, because we have worked. And I think when we worked with you during the taxation side on this, it worked really well. [LR444]

SENATOR HADLEY: Yeah, the Tax Modernization Committee, we...a lot of... [LR444]

SENATOR HARMS: It took the relief off of your committee, and we were able to do it because we had the expertise. But that's something I think you just need to think about. Yes, Senator Adams. [LR444]

SENATOR ADAMS: Just falling in line with what both of you were saying, I'll give you an example of something that I think worked very effectively. It's not quite the same but very close. But in the four years that I chaired Education, there wasn't a single interim where we weren't doing an evaluation of TEEOSA and the various elements. And what we would do, very simply, knowing full well that the Education Committee had jurisdiction over it and any bills that were introduced were going to be drafted by, introduced by, heard by the Education Committee, that we spent the summer sitting with Fiscal staff because they had computer analysis for us. When they had time, legal counsel in the Education Committee could talk to Fiscal Office and say, can you run analysis on teacher education allowance or whatever it was. We could sit down, work through all of that, and then eventually the Fiscal Office would back away. The Education Committee would hold hearings, have jurisdiction. So I think both that respects the jurisdiction of the committee but at the same time utilizes the appropriate staff we have available in this building to get where we need to go. [LR444]

SENATOR HARMS: And that's the beauty of our system. [LR444]

SENATOR HADLEY: Yeah, I would agree entirely. [LR444]

SENATOR HARMS: We're able to work with each other. And it really isn't "Who is going to do it?" It's just, "Can we get it done together?" And so I think as we just...as we go through this, I want you just to mull it over because, when we get to the end, that decision is going to have to be made. And that's why I'm setting the stages now for we to just think about that. Do you have any other questions you'd like to ask us? Senator Schumacher. [LR444]

SENATOR SCHUMACHER: Well, just along that same line--thank you, Senator Harms--you know, there has to be a point where tax incentives are integrated with complete tax policy. We have a 6.84 percent top bracket officially. But if you look at the statistics, the effective rate of tax on the upper echelon of income earners is considerably less, if I remember right, 4 or 5 percent. There's some thought that that disparity is at least in part due to these incentives. And so to the extent you want to balance something with a progressive tax system or you want to reduce a top rate or increase a top rate, there has to be a point where that's all integrated. And I think the Revenue Committee is what's set up to do that integration. [LR444]

SENATOR HARMS: Okay. Thank you. Any other questions? I'm going to adjourn just for a ten-minute break. We'll stop our streaming. And then we'll come back and we'll just kind of finish this up and kind of have some more open discussion. And so thank you very much. We'll be back in ten minutes. Thank you. [LR444]