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LR444 Tax Incentive Evaluation Committee
August 28, 2014

[LR444]

The Committee on Tax Incentive Evaluation met at 1:30 p.m. on Thursday, August 28, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR444. Senators present: John Harms, Chairperson; Dan Watermeier, Vice Chairperson; Al Davis; Annette Dubas; Galen Hadley; Bob Krist; Heath Mello; Paul Schumacher; and John Wightman. Senators absent: Greg Adams.

SENATOR HARMS: I am going to call the hearing to order if I can. I'd like to take this opportunity to welcome you here and thank you very much for coming. I'd like to give you just a little bit of background for the reasons behind this particular hearing on LR444. LR444 was introduced in regard to the response to the Legislative Performance Audit Committee report of 2013. And this report regarding the Nebraska tax incentive programs, the overwhelming findings of this Audit Committee was that the incentive program goals are just too general to provide any meaningful evaluation. It was difficult, very difficult, for us to determine whether we were meeting the goals. So if you have any interest, you know, in the findings of this report, you can definitely review that through...by going to our Web site, the Performance Audit Committee's Web site, to get the entire report. You can kind of see the very things that we saw and what brought this LR444 to today. The Tax Incentive Evaluation Committee is working with the policy experts at The Pew Charitable Trust, and the intent here is to develop specific and measurable goals for each of the tax incentive programs and determine the most cost-effective metrics in the process to ensure meaningful evaluation take place. The committee also has the task with creating a strategic evaluation schedule and then determining which office will follow through with this particular review. Now I want to clarify for you here that the purpose of this hearing is to take public comments on the goals and the metrics the committee is considering. I want to emphasize to you today that we have made no decisions at all. If you haven't picked it up over here, there's a copy of the areas that we're looking at. We've identified those and if you haven't, you should pick this up. And here's where we want you to be if you can; we want to focus on

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the goals and the metrics. Anything beyond that will not be very meaningful to the committee. I don't mean that in a negative sense. But we're not here to discuss the importance of this program. We're not here to discuss the value of it because we think it probably is valuable. What we're trying to come to grips with, that we can evaluate it and that we have goals that have metrics that we can at least determine whether we're meeting our goals. So if you get beyond that circle, then it will be difficult for us to get where we want to go. Okay? So I hope that you'll keep that in mind as you look at this. Now I'd like to take just a moment if I can. First of all, my name is John Harms. I serve as the Chair of the LR444. I'd like for the rest of our committee members to introduce ourselves. To my right and to your left, Senator Davis. [LR444]

SENATOR DAVIS: I'm Al Davis from District 43, representing north-central and western Nebraska. [LR444]

SENATOR SCHUMACHER: I'm Paul Schumacher from District 22, representing Platte and part of Colfax and Stanton Counties. [LR444]

SENATOR KRIST: Bob Krist, District 10, northwest Omaha, Bennington, and unincorporated parts of Douglas County. [LR444]

SENATOR DUBAS: Annette Dubas, District 34, Nance, Merrick, Hamilton, and a portion of Hall County. [LR444]

SENATOR HARMS: This is Martha Carter. Martha is the director of our Performance Audit Committee, does a great job for us. And to my left is Diane Johnson who is our clerk. [LR444]

SENATOR MELLO: Heath Mello, state senator from District 5, south Omaha and midtown. [LR444]

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SENATOR WATERMEIER: Dan Watermeier from southeast Nebraska, residing in Syracuse and representing District 1. [LR444]

SENATOR WIGHTMAN: John Wightman, District 36. I live in Lexington, Nebraska, represent all of Dawson, all of Custer, and a small part of Buffalo County. [LR444]

SENATOR HADLEY: Galen Hadley, District 37, that's Kearney and basically the rest of Buffalo County to the Hall County line. [LR444]

SENATOR HARMS: (Exhibit 1) Thank you very much. Just some housekeeping duties. If you have a cell phone, please turn it off. We found that it does interfere with our recording system, so we'd appreciate if you'd turn it off. If you have any handouts, we'd like to have 15 copies of that--we would appreciate that--and give that to one of our pages when you come forward. If you will be testifying, we'd like to have you sign in, and that's over in the corner there, the fluorescent orange form, and please sign the form, complete all the information. Hopefully you'll print it so that it's legible and give the form to our clerk, if you would, for me or to one of the pages who can give it to the clerk. When you get here, we'd hope that you would spell your first name and your last name so it's easier for our Transcribers Office to be able to know who's speaking. We do have a lighting system, and I would like to ask, how many people plan on testifying? Could you raise your hands, please? How many would want to testify? Well, then we will not use the light system so we can move right along. Thank you very much. If you're not testifying, we would like for you to please fill out the form, give the information to our clerk immediately following the hearing. I do have an item that we did receive, a letter that I would like to have read into the records. I think it's from Rob Bligh and I'll spell his last name because I hope I didn't murder the last name: B-I-i-g-h, 17516 Karen Street, Omaha, Nebraska. He has sent his thoughts and views about this particular LR444 so we'll place that into our records in regard to that. You do have an agenda that you hopefully have had the opportunity to look at. And I would appreciate it if you would see...look at it so you know how...where we're going to go. Now we have invited

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testimony and they'll be in this order: Renee Fry, who is the executive director of the OpenSky Policy Institute; and then Mark Norman, Greater Omaha Chamber of Commerce; Chad Denton who is from the Nebraska Chamber of Commerce and Industry and Lincoln, Nebraska, Chamber of Commerce, in that order, and then we'd open that up to the public. And so, Renee, you're already here and you're ready, and so thank you and it's yours. Yes. [LR444]

RENEE FRY: (Exhibit 2) Good afternoon, Senator Harms and members of the Tax Incentive Evaluation Committee. As you heard, my name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of OpenSky Policy Institute. Since our inception, we have been very supportive of efforts to improve the effectiveness and return on investment of tax incentives. We recognize that tax incentives are an important economic development tool. But the research finds that tax incentives do not tend to pay for themselves and so there is good reason to ensure that Nebraska's tax incentives are not only inducing the intended economic activity but also more effective than other policy options. I have handed out a list of research papers on tax incentives that I encourage you to review as you identify the goals of these incentive programs and how to measure their effectiveness. I do want to bring your attention to some key points in the two...in the first two papers mentioned. The first paper was authored by Jennifer Weiner of the Federal Reserve Bank of Boston and outlines both key considerations when designing tax credits and a framework for evaluating business tax credits based on a thorough review of the research in this area. She strongly suggests considering the larger picture. For example, policymakers need to consider how business tax credits support or undermine other goals of state tax policy and who is benefiting--and how--when determining the proper role of such credits in promoting economic development. The framework for evaluating business tax credits she proposes would evaluate the following questions: Is the credit inducing the desired economic activity? How do they complement or detract from other goals of tax policy? Are they a more cost-effective means of doing so than other policy options? She offers that even a credit with an acceptable level of cost effectiveness may not be the best deal if another policy

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would yield a bigger bang for the buck. She also finds that while most studies suggest business tax credits lead to new revenue for state government, they do not completely offset the cost. Therefore, she asserts it's important for policymakers to understand the benefits that states are gaining for the revenues that they are giving up. Timothy Bartik of the Upjohn Institute for Employment Research has spent much of his career studying tax incentives and is currently working with Pew to provide a modeling tool. He suggests a wide variety of potential reforms ranging from limits on cost incentives' costs to stronger job-quality standards to up-front cost-benefit analysis. He recommends reforming incentive policy to offer incentives selectively, subject to an overall budget constraint. Incentive offers would be coordinated at the metro-wide or state level. Full public information would be available on all incentive offers and their results. Incentive offers would be subject to a prospective cost-benefit analysis and have some minimum standards for job quality. Incentives would focus on encouraging more hiring of the unemployed, for example, through hiring subsidies and customized training grants. Economic development incentives would be used to increase labor demand for those local residents who are underemployed or unemployed, and such local demand policies would be coordinated with local labor supply policies which would provide the training and education needed for local residents to succeed in these new and better jobs. With that, I would encourage you to think about what we are trying to achieve through these tax incentives. What is our overarching economic development strategy? Are these incentive programs capitalizing on our state's advantages and needs? Is our intent to reduce unemployment? Is it to improve the quality of jobs available for our residents, or is it to recruit new residents to the state? And how do all of the other existing tax credits overlap with these incentives and are they working together or at cross purposes? If credits work and drive economic development, should we direct these incentives to improve economic development in distressed areas or those with declining population where they can make a bigger impact or towards strategically creating a cluster, like Silicon Valley? Some state programs have a competitive proposal process whereby they review applications one to two times per year and pick the strongest proposals. We could structure a similar process to select the best proposals based on a rubric of

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factors such as the highest return on investment, the incentives most likely to make a difference to a community, those that best contribute to a strategic vision of the state, or those that reduce unemployment or encourage growth in a distressed area. One specific area I would encourage analysis is whether we have the appropriate mix of investment versus compensation credits. Under Nebraska Advantage, compensation credits--which are new hires--are 16 percent of the credits earned, and investment credits made up 84 percent. Since investment only benefits Nebraskans indirectly, it's important to study whether incentives for investment are ultimately translating into more jobs and higher wages. Furthermore, do the requirements to qualify for the certain tiers make sense, and is the balance between job creation and investment requirements right? Evaluations can compare the effectiveness of different tiers to one another, which could help clarify how we can effectively create jobs. I would also recommend looking closely at the use of local incentives and the impact on local governments. While there has been a lot of discussion about the impact to cities when companies use sales tax credit that impact the local option sales tax, there hasn't been much discussion about the personal property tax exemption. When comparing LB775 to Nebraska Advantage, the use of the personal property tax exemption has increased from 7 percent under LB775 to 21 percent of the benefits under Nebraska Advantage. So how are such exemptions affecting local revenues and tax rates for the remaining taxpayers in those counties and what is the effect on TEEOSA distribution from a narrowing of the property tax base? In general, it seems like we should have more state and local cooperation in order to ensure that state-level incentive decisions are not negatively impacting local government functions and if they are, to try and remediate those negative effects. In addition, we would recommend the following: Applications should consider a baseline of employees to ensure companies aren't rebuilding a workforce that they rebuild after a recession anyway. The Audit Committee should conduct the evaluations and be empowered to make recommendations to the Revenue Committee. This is a limitation with the current system. The Department of Revenue collects the data and awards the incentives but doesn't evaluate the effectiveness of the programs or recommend policy changes to improve the system. We should ensure new jobs are being created and not

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displacing or redistributing jobs with other Nebraska businesses. And finally, in 2013, \$273 million in tax incentives were used through the Nebraska Advantage and LB775 programs. To put this in perspective, this is the equivalent to the combined FY '13 General Fund appropriations for Corrections, Supreme Court, and State Patrol, which was \$295 million and has over 4,000 full-time employees in those three agencies. If the Legislature would not have been willing to appropriate \$273 million to those businesses we should give some serious thought to why we are willing to provide a tax expenditure but not an appropriation, since the effect to the state budget is the same. Thank you for your time, and I'd be happy to answer any questions. [LR444]

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

SENATOR HADLEY: Ms. Fry, there's three places in here you talk about unemployment, reduce unemployment, reduce unemployment. What is the unemployment in Nebraska right now? [LR444]

RENEE FRY: Yeah, it's very low. So Timothy Bartik has done a lot of research on tax incentives and he finds that the most effective tax incentives are geared toward unemployment. There are areas within Nebraska though that do have much higher unemployment than the state as a whole. So what he recommends is that you really look at targeting incentives to those distressed areas where you can improve the quality of life for the residents in those communities. But from his research, he finds that really targeting the unemployed and the underemployed--which my guess is we have probably a fair amount of underemployed folks in Nebraska and I don't know if there is any data on that or not--but he suggests that really focusing on unemployment and underemployment is the most effective use of tax incentives in the research that he's found. But to that point, I mean, I think we need to be really clear on what our goals are. And if we're not focused on underemployment or unemployment and are focused on recruiting folks to the state, then the research suggests that there are other

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considerations that we need to think about, such as infrastructure needs and growing the state and making sure that we are willing to contribute the resources if, in fact, we're able to recruit new people. And if we're trying to recruit new people, are we being strategic about where we're trying to direct them? Are we focused on increasing jobs in Omaha or is the intent to increase jobs in rural Nebraska? And so both of these first two researchers really focus on trying to be very clear about the objectives of the program and matching up the incentives to make sure that those objectives are being met so that we are getting a return on investment and are meeting the goals that we've set out. [LR444]

SENATOR HADLEY: Yesterday we had a hearing in Kearney and we had the economic development person say, if I remember right, there are 500 positions right now that can't be filled in Kearney. [LR444]

RENEE FRY: Yep. [LR444]

SENATOR HADLEY: So basically, I think the state of Nebraska is at structural unemployment now, very close, right? [LR444]

RENEE FRY: Right, I agree. And so that begs the question of whether our goals...I know one of the goals is to look at unemployment. Timothy Bartik again suggests looking at a lot of...having incentives in a lot of up-front costs, such as job training and education. So again, getting those underemployed individuals or unemployed individuals...again, not money, but there are pockets, I know. And in Omaha there are parts of Omaha that have much higher rates of unemployment. So targeting those areas, getting them job training that they need, getting them the education that they need, and then there's a lot of societal benefit to that as well because you're reducing the amount of underemployed or unemployed folks. But again, it's really targeting the intent of the incentives and the needs of Nebraska, which I mentioned. You know, what are our strengths in Nebraska and what are our needs and really being deliberate about

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making sure that our incentives are trying to meet our needs and really working to our strengths. [LR444]

SENATOR HADLEY: So would we get to the position of saying to a company, if you come to Omaha we'll give you an incentive, but if you want to go to Grand Island we won't give you one? [LR444]

RENEE FRY: Well, but it... [LR444]

SENATOR HADLEY: Because if Grand Island basically has no unemployment and you say there are pockets in Omaha, basically do we tell a company that if you want to come to Omaha we'll give you incentives, but if you want to come to Grand Island we won't give you incentives? [LR444]

RENEE FRY: So what the research talks about, again, is really trying to figure out what it is that we're trying to achieve. So are we trying to achieve job growth in Omaha or are we trying to achieve job growth in other parts of the state where there...as Senator Harms I've heard talk many times about the amount of folks who are moving from the rural areas to the urban areas, which have a lot of impact on infrastructure needs in the urban areas. And obviously then you have towns that are disappearing in rural Nebraska. And so to the extent that we want to rebuild rural Nebraska, then thinking about, okay, how do we structure our incentives to make it worthwhile for a business to move there? Do we create some sort of cluster where you have the workforce that you need to put a business there? I mean, that's part of the problem, right, is that we have this disconnect in terms of what our workforce needs and abilities are and our...you know, the folks that we have to take those jobs. I mean, to have 500 or 700 open jobs in Kearney and Kearney's unemployment I think is, what, below 1 percent? And so the idea is really trying to match up those needs to the incentives so that they're being very deliberate in the work that they are doing and being very fluid because the needs will change. So again, really focusing...he encouraged, Bartik...I mean I'm just...I'm a

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student of his by reading what he's put out since this is a topic that he's studied his entire life. But again, focusing on the job training and education to make sure that those unemployed and underemployed people can be good employees and can fill those 500 jobs but that we're not just creating jobs for the sake of creating jobs where we don't have people to fill them or we have a mismatch with the current workforce and aren't doing anything to remediate that. [LR444]

SENATOR HADLEY: Okay, thank you. [LR444]

SENATOR HARMS: Thank you, Senator Hadley. Senator Krist. [LR444]

SENATOR KRIST: Yeah, we're trying to get more jobs in Omaha, and that's right. [LR444]

SENATOR HADLEY: I knew I'd get him. [LR444]

SENATOR KRIST: Yeah. But I think the point is that there are pockets in the state, and north Omaha being one of them, where unemployment, crime, etcetera, is so I understand the point that he is making. It's very difficult to evaluate the current programs in light of demographics and geographical differences across the state. I think that's...that point is worth making. Thank you very much. [LR444]

RENEE FRY: Yeah. [LR444]

SENATOR KRIST: I'm just kidding, Galen, so. [LR444]

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

SENATOR DAVIS: I want to sort of revisit a little bit of the discussion that we had earlier

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with regard to the TEEOSA formula because I'm on the Education Committee. And the things we learned this morning in the presentation were that approximately \$46 million, I believe, is personal property that is exempt. And if you couple that with the property that's exempt from...that is TIFed, that's another \$23 million, if I remember correctly from last summer. So we are at...is that right? [LR444]

RENEE FRY: That's actually...there's more than \$23 million that would be exempt, but there's \$23 million that is impacting state aid that needs to be infused into state aid to make up the difference with the TIF projects. So the TIF amounts are actually larger than that but it's \$23 million of... [LR444]

SENATOR DAVIS: But it's \$23 million in additional... [LR444]

RENEE FRY: ...state aid that is necessary to replace the property tax that's exempted through TIF. Just wanted to clarify that. [LR444]

SENATOR DAVIS: So we have that \$23 million, but the figure that we had this morning was \$46 million, which also has to be...that's replacement revenue, correct? That is... [LR444]

RENEE FRY: That's money, right, that is money that's exempted from the property tax rights. [LR444]

SENATOR DAVIS: So that would be part of that too. [LR444]

RENEE FRY: Yes, so resources for schools would be reduced by that amount, right. [LR444]

SENATOR DAVIS: So combined that's about \$69 million is what I came up with. [LR444]

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RENEE FRY: Yeah, so, again, our TIF amounts...and this is something that we're looking at, and I can't give you the exact numbers today. And so what we would have to do is that \$46 million wouldn't translate exactly through the state aid formula, so we'd have to figure that out. So the TIF amount, the \$23 million, is just the state aid portion, whereas the \$46 million on property tax or on the property tax exemption for the incentives, that's the raw dollar in terms of how much...what the impact is to property taxes, how much of property taxes are being exempted. And so we would have to figure out how much of that then is impacting the state aid formula. So it's going to be somewhere in the middle. But as we talked about--and that's the reason I handed out this handout that has personal property tax exemption on the top--it is something that we need to be aware of. And you can see on the second page how much personal property value, as a percent of total personal property, is being exempted in the six largest dollar amount counties. And you can see in Washington, 40 percent of all personal property is exempted through the incentive programs and 58.6 percent in Platte. So what we would have to do is look and see how the personal property is being exempted and then go back and tie that into the state aid formula. And so that's something that we're working on, but I don't have those numbers. But, yes, it likely does have an impact to the state aid formula. [LR444]

SENATOR DAVIS: So at some point will you be able to tell us... [LR444]

RENEE FRY: Yes. [LR444]

SENATOR DAVIS: ...how much an impact it has on the formula? [LR444]

RENEE FRY: Yes, we will, yeah. [LR444]

SENATOR DAVIS: Because, as you know, I come from rural Nebraska. But we hear about property taxes constantly being too high and the primary driver of that is schools.

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[LR444]

RENEE FRY: Right. [LR444]

SENATOR DAVIS: And so if we're having to plug more money in and we're only going to allocate X amount of dollars, somebody pays the price somewhere else. [LR444]

RENEE FRY: Right, and I know from visiting Chadron and talking with your constituents that they are very concerned, not only about TIF but also about tax incentives and what the impact is. And we are trying to determine that. And the other thing that I would reiterate that I mentioned in my testimony was that the use of the personal property tax exemption has increased pretty significantly. As the Tax Commissioner mentioned this morning, you know, you have...you can look at a series of years or you can look at a snapshot and it varies from year to year. But if you look at LB775 and the duration of LB775 versus Nebraska Advantage and the duration, we've seen a significant increase, about threefold increase in the use of the personal property tax exemption under Nebraska Advantage. So as LB775 phases out and Nebraska Advantage becomes the, you know, more used and more credits are collected, we could see that that property, personal property tax numbers go up. So it is something that we should be keeping an eye on and look and see how that does impact the local governments in the state aid formula. [LR444]

SENATOR DAVIS: You were here this morning, you heard the Tax Commissioner talk about the different categories of qualifying and the salaries that go along with that. But I guess this was my first exposure to it and I just am asking for a comment more than anything else. But they talked about or she talked about the wage category, which I was...I thought was surprisingly low, at least in some of those tiers. Do you have any comment on that? [LR444]

RENEE FRY: You know, I think it's a valid question. Timothy Bartik, again going back to

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what he's done, when he talks about a cost-benefit analysis, a lot of what he talks about is looking at wage effects including the wage rate paid in jobs for workers of given credentials versus current local jobs held by residents for similar credentials. And so he really, in that cost-benefit analysis, encourages us to consider are the jobs that are being provided under the incentives providing a higher wage for, like, background than other, you know, nonincentivized jobs. And that would be one of the criteria for a cost-benefit analysis. [LR444]

SENATOR DAVIS: To evaluate. [LR444]

RENEE FRY: Yeah, that's an important consideration to look at. You know, he also encourages looking at fiscal effects and state effects. You know, the effects on public expenditures, environmental effects on infrastructure, a whole series. And I can certainly...if...in that data he lays out in his paper, and I have some of that as well. But, yeah, it's absolutely a consideration for us if we're not providing higher wages than nonincentivized jobs, that should be part of the consideration. [LR444]

SENATOR DAVIS: It sounded to me, since there's no requirement for health insurance, basically, and they were \$12-14-an-hour jobs, a lot of those people would essentially be eligible for a lot of our other assistance in the state. So that's another sort of indirect subsidy that we're not ever looking at. [LR444]

RENEE FRY: Right. And actually, both of those two researchers that I mentioned, both encourage looking at what the relationship is between the incentives and other government programs, again, to make sure that the investment...you need to factor in those things. Is it paying enough? One of the societal benefits, if you pay enough through the incentive programs so that people aren't on Medicaid and aren't, you know, getting childcare credits and those sorts of things, there can be a real societal benefit to providing that higher wage. And it should be part of the calculation. [LR444]

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SENATOR DAVIS: Okay, thank you. [LR444]

SENATOR HARMS: Thank you, Senator Davis. Do we have any other questions? Seeing none, thank you very much, Renee. Mark, Mark Norman. Welcome, Mark. [LR444]

MARK NORMAN: Welcome. Thank you. Mr. Chairman, Senators, thank you for the opportunity to come and provide a little bit of input and participate today. My name is Mark Norman, M-a-r-k N-o-r-m-a-n, and I am the senior director for client services with the Greater Omaha Chamber. And what client services is, is if there is a new-to-market company that is looking at coming into Nebraska and looking at the greater Omaha area, essentially that project is going to go through my desk and distributed out to the various partners who we work with. And so we're looking at and working with the companies that are coming in and will be dealing with incentives in their evaluation process. So I have just a few points I would like to share with you today in your discussion about the effectiveness of Nebraska's economic development programs. And first off, let me do say, I think the--especially as it relates to the Nebraska Advantage program--I think it is a very effective program. It is performance based. And so you are going to be rewarding companies for those that are going to be the more jobs they create, the more investment they make, the higher the wages that they get paid, you're going to reward them more. And I think that's a good way of doing that. In looking at measuring the effectiveness of the program, I think we should focus on the easily quantifiable item. I think there is some merit in keeping it simple. You try to get too complicated in the methodology, I think it does tend to muddle things up a bit. So, for example, looking at the number of net new jobs, the cost per job in relation to total benefit provided, the capital investment, the increase in the economic activity created by the project, those are things that we look at and try to measure on our part in dealing with projects in the Omaha area. I think also, in looking at the economic activity or the impact of the project when you're doing it, I think it's important to also take into the calculation the multiplier effect of income, of the jobs, and the capital investment. I think

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if you're only utilizing the direct impact, it really doesn't give the full benefit of the project. And there are a lot of models out there that can do that so you don't necessarily have to re-create the wheel. One plan that...or one method that we use is the IMPLAN model, it's widely used across the United States, that can measure the impact and the multiplier effect. For an example, I would say, if there is a large \$200 million project that is going into Blair, you're going to have a huge impact on the contractor side. You're going to have electricians, you're going to have steamfitters, pipe fitters, and other folks that are going to be working in constructing that, often over a multiyear period of time, going to be supporting those folks through that construction period as well as existing maintenance contracts and so forth that are going to continue to provide economic impact. So I think it's important that we look at measuring all of those things. We also agree that the incentive programs need to have the appropriate accountability. And most of the companies that we work with understand that they are going to have to have a reporting process and accountability process as...in exchange for receiving those benefits. But I do think we also have to balance the need to provide accountability with the need to protect the proprietary information of the businesses that we're working with. And so looking at reporting in aggregate or otherwise, somehow shielding some information from the competitors so that their competitors cannot gain insight on the company. A lot of the clients that we're working with want to be first to the market with either a particular product or a particular service. And having a competitor gain knowledge of project details, whether that be specific capital investment numbers, specific M&E numbers, whatever, can give them a little bit of an edge and help them kind of reverse engineer what they're...what they'd be up to. So just looking into that, that we do need to think about how do we protect the confidentiality of the clients. I think it's also important that, with the accountability and recordkeeping, be kept as simple and as low cost as possible. Compliance costs right now are a little tough for a lot of companies. And especially the smaller companies, you know, don't have the resources to do that. So looking at a project and knowing that there are burdensome reporting requirements could have a negative effect. Again, I think most of them realize that they do need to report and will work with it on that, again, just looking sure that we keep a

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good balance there. And then also, I think it's really important that we focus on keeping Nebraska competitive. You know, the businesses that we're working with are looking at a multitude of states, you know, which one is going to be the best location for their expansion. And these companies look at a variety of factors in the process and the presence or lack thereof of an incentive program that provides benefit to them and again will...could tip the project away from Nebraska. As a side note, just kind of want to mention the word of this committee's investigation into incentive programs has spread far and fast. I got a call from a Dallas consultant who is working with a company. They are looking at bringing a project into Nebraska, 500 jobs, potential, good-paying jobs. And he was saying, what's happening with that? We assured him that we're going to be here looking at things. But...so again, they pay attention to these things, they know what's going on across the country. That's what they're paid to do. And so we just have to, again, make sure that we keep things moving in the right direction. We have won projects because of the presence of Nebraska Advantage, and we have lost projects because we have not been as competitive in a variety of factors. And again, that...one of those factors is the incentive programs. With that, that really covers my testimony. I would be more than happy to answer any questions the committee has. [LR444]

SENATOR HARMS: Thank you very much, Mark. Do we have any questions for Mark?
Senator Krist. [LR444]

SENATOR KRIST: Two questions. The first one is this morning we were briefed by the Tax Commissioner. And there is a...you say that there's other models out there, models that you use. The cumulative summary through December 31, 2013, there's 57 qualified companies that are reported to increase employment by 9,302 FTEs. We, collectively, don't think that's 9,000...let me not say "we." I don't believe that's 9,000 new jobs. I believe that the way the FTEs are structured, they're comparing hours as they're reported by the company and converting that to FTEs. So I'd be interested to see, and you don't have to answer it today but the point is, I'd be interested to see how your model compares with our models in terms of breaking down how many new jobs that

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actually brought, those 57 companies actually brought, new jobs... [LR444]

MARK NORMAN: Right. [LR444]

SENATOR KRIST: ...utilizing a different comparative model. [LR444]

MARK NORMAN: Right. [LR444]

SENATOR KRIST: And I think you have that added capability. [LR444]

MARK NORMAN: Right. [LR444]

SENATOR KRIST: The other thing I would mention is that, although I think you're on target when you talk about new companies coming in and construction, we have several examples in the Omaha area where those construction personnel were brought in from outside the state. So really, it's just the construction. It's not the money on the secondary and tertiary level that's being brought back into the education system because those employees that are steelworkers put up a building and live there, they pay taxes, they have property taxes. You bring in people from outside. And I'll cite the STRATCOM project as one,... [LR444]

MARK NORMAN: Right. [LR444]

SENATOR KRIST: ...even though that's not directly related to here, I believe the number is over 85 percent of the construction personnel were brought in from outside. So although it's a good point, I think we have to be aware and evaluate that there's no way to say you have to use Nebraska workers to build your building. [LR444]

MARK NORMAN: Right, right. [LR444]

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SENATOR KRIST: It's just impossible, at least that's what I've been told and what I believe. [LR444]

MARK NORMAN: Right. [LR444]

SENATOR KRIST: But we have to compare those things when we talk about the actual benefit. [LR444]

MARK NORMAN: Right. [LR444]

SENATOR KRIST: And I'll let you comment (inaudible). [LR444]

MARK NORMAN: Yeah. And, yeah, and I mean, there's no perfect model and everything is going to be on a regional kind of an economic impact model. And so, you know, and that's where the local economic development agencies and the chambers have to work with the projects that are coming in and provide them the opportunity. Here are our local contractors. Here are our local folks that can do the job and can do it well. So...but you can't, yeah, you can't require them to utilize those folks. But just providing them the opportunity to at least bid and compete is something that we do on a local effort to try to do that. But that's something that we take on ourselves. And I know a lot of other groups across the state do that as well. [LR444]

SENATOR KRIST: Thank you. [LR444]

MARK NORMAN: Yeah, thank you. [LR444]

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

SENATOR SCHUMACHER: Thank you, Senator Harms. Thank you for your testimony

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today. I don't think anyone really disagrees with the proposition that you have to do what you have to do in order to attract business. What is kind of a difficult question is, with a limited number of or amount of resources, what is the best way to get the biggest bang for your buck? And I kind of posit this situation to you: If two businesses, one that's been in the community for 30 years, gradually grown maybe to 150, 200 employees--not a dramatic growth just a steady growth of a normal, taxpaying business--gets no incentive, gets hit with a corporate tax, and the new guy comes on the block--maybe even a competitor--gets promises of tax credits which are basically anticorporate tax or anticanceling features, maybe takes some of his employees, the first guy's employees away, and is in a much better position, while the other members of the community don't get any of that benefit. From your perspective, what would have the better bang--getting rid of these tax credits and also...or...and keeping the corporate income tax or getting rid of the corporate income tax and getting rid of the credit, the antitax? [LR444]

MARK NORMAN: I can speak of that from the perspective of questions that come up with projects that I'm dealing with. And corporate income tax really doesn't come into play too much with the projects that I'm dealing with. Again, I'm just dealing with my personal experience. And they expect to pay some corporate income tax and a lot of them say, yeah, that's part of doing business. But looking at how can I reduce the cost for my bottom line, that's where the business assistance programs can come in by providing some of those tax credits to reduce that impact a little bit, as long as they are making investment and growing. And then the wage compensation credits are a very positive thing for them because that's an immediate cost savings for them on an ongoing operational basis and can allow them to grow and expand a little bit further. So that would be my response is that they're more concerned about what can I get in terms of keeping my operational cost down from the perspective of the wage compensation credit, my sales tax refunds, and the ability to reduce my taxes through the investments that I'm making than opposed to I don't want to pay any corporate income tax. [LR444]

SENATOR SCHUMACHER: But if we got rid of the corporate income tax, then the man

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who'd been there or the business who'd been there for 30 years, gradually growing, would have similar encouragement to grow rather than concentrating all this effort in the hands of the new guy. [LR444]

MARK NORMAN: Yeah, and depending on, I guess, what type of business they are, I mean, they have the ability to utilize Nebraska Advantage as well. I mean you have the attainment period of five to seven years for them to create those jobs and make those investments. So I think that's good in that the existing companies can have that ability to do that as well. Are there some folks, I suppose, that aren't able to do that? I think there could be some out there, and I think that's a gap maybe that needs to be looked at. [LR444]

SENATOR SCHUMACHER: Thank you. [LR444]

SENATOR HARMS: Thank you, Senator Schumacher. Senator Davis, do you have a question? [LR444]

SENATOR DAVIS: No. [LR444]

SENATOR HARMS: Okay. Senator Hadley. [LR444]

SENATOR HADLEY: Thank you, Senator Harms. Thank you, Mr. Norman. The Greater Omaha Chamber of Commerce, that includes more than just... [LR444]

MARK NORMAN: Correct, six counties in the metro. [LR444]

SENATOR HADLEY: Okay. How much cooperation...how much do you involve the cities and the county and the DED in working together to work with potential clients coming in? [LR444]

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MARK NORMAN: Right. We work with all of our economic development partners very closely. And that would be the Department of Economic Development, the utility companies, and even some of the local chambers of commerce, Sarpy County Chamber and so forth. But we're constantly working with the cities and the counties and updating them as to what's happening. So if we have a project that is looking at a piece of ground in a particular geographic area, we're going to go to that city, we're going to go to that county and we're going to say, all right, here is the project, here's their capital investment, here's their jobs. Make sure, number one, that it's a good fit for what they want to see in that particular area. We're going to then talk to them about what can we do from a local perspective. Is there utilities that need to be extended? Are there roads that need to be extended? You know, how do we pay for that or is that strictly going to be a project cost? So we're going to be constantly working with them from day one trying to make sure because we don't want to have any hiccups along the way that all of a sudden we're going to say, like, oh, we can't get that done there. We can't get that zoning change or we can't get the utilities out there. So we're working with them constantly. [LR444]

SENATOR HADLEY: So your goal would be basically no surprises for the city, county, those kinds of things. [LR444]

MARK NORMAN: No surprises whatsoever. Right, yep. [LR444]

SENATOR HADLEY: They know what's happening and... [LR444]

MARK NORMAN: Yep. [LR444]

SENATOR HADLEY: And I would guess that if a particular city said, we just don't think this is a fit for us... [LR444]

MARK NORMAN: We've had that happen and we have then told the client, you know,

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this is not going to work for you in this location, we'll propose a different location and see if that works. But we have had that happen. [LR444]

SENATOR HADLEY: I'll give you a card for Kearney in case they ever want (inaudible). [LR444]

MARK NORMAN: Okay. You guys have a great data center site. [LR444]

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

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

SENATOR SCHUMACHER: Just...thank you, Senator Harms. Just one follow-up question. What...do you have any figures or feel for what percentage of, say, the employees in the area that you serve are in incented businesses versus unincented businesses? [LR444]

MARK NORMAN: I do not. I would have to get that information for you, Senator. [LR444]

SENATOR SCHUMACHER: No real feel? Is there a place for you even to get that information from? [LR444]

MARK NORMAN: I do not know. So you're asking how many jobs would be jobs that are related to incented versus nonincented? [LR444]

SENATOR SCHUMACHER: Right. [LR444]

MARK NORMAN: I would have to try to research that. I don't...I would not want to

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hazard a guess I don't think. [LR444]

SENATOR SCHUMACHER: And a similar answer, I would assume then, for the gross productivity of your areas, GDP, so to speak,... [LR444]

MARK NORMAN: Yeah. [LR444]

SENATOR SCHUMACHER: ...how much comes from incented business versus unincented. [LR444]

MARK NORMAN: Yeah, I would have to research that, yes. [LR444]

SENATOR SCHUMACHER: Are the incentives then almost kind of an extra margin on top of the base economy? [LR444]

MARK NORMAN: In terms of a company deciding where to go? [LR444]

SENATOR SCHUMACHER: No, in terms of the participation of our economy. The incentive companies, the ones that...this tremendous resource in the neighborhood of \$100-and-so millions a year that we're focusing on that probably, I guess, if we could find those numbers, is a limited percentage of our economic activity. Is that just to give us the extra margin at the top? [LR444]

MARK NORMAN: Well, I guess I'm not quite sure what you're asking. I mean, I think that the companies have a lot of choices where they can place this investment. And so they're going to look at a lot of different factors. And for some, you know, having the ability to exempt a particular personal property in Nebraska for the project is going to have a huge difference whether or not they locate it in Nebraska. So I guess I'm not quite sure exactly what you're asking, sir. [LR444]

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SENATOR SCHUMACHER: Okay, maybe I can rephrase. Is the object of this game to lay on top of a otherwise stable, taxpaying business community that is not getting incentive, lay an extra layer of productivity that wouldn't otherwise be there? And for that, give those businesses special tax exemptions? I mean, is that what we're doing? Because it doesn't seem like... [LR444]

MARK NORMAN: I don't think...I don't...I don't think...so if you're asking for...would it happen anyway, is that what you're asking, or...? [LR444]

SENATOR SCHUMACHER: No,... [LR444]

MARK NORMAN: No, okay. [LR444]

SENATOR SCHUMACHER: ...because most of the economy has helped (inaudible) happened anyway I would guess. The great bulk of our employees, the great bulk of our investments, the great bulk of what goes on in the state is not the beneficiary of tax incentives. So we're going through this fairly significant expenditure of public resources in order to just attract a few more and some--I'll make a judgment there--that those few more, on top of the nonincented economy, are really worth it. [LR444]

MARK NORMAN: So we're not attracting... [LR444]

SENATOR SCHUMACHER: They make the... [LR444]

MARK NORMAN: We're not attracting enough is what you're saying. [LR444]

SENATOR SCHUMACHER: No, I'm not saying we're not attracting enough. [LR444]

MARK NORMAN: Okay, okay. [LR444]

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SENATOR SCHUMACHER: But what I'm basically saying, the people that we're attracting, the small percentage of the businesses that are going to get this couple hundred million dollars a year, is the theory that they're doing us so much good as a state that...and we're losing nothing because of attracting them, they wouldn't be here otherwise. [LR444]

MARK NORMAN: Well, I think that we are diversifying the economy and bringing a lot of companies and jobs here that are quality jobs. So again, I guess I'm still not quite sure exactly what you're saying. But again, I think it's a positive benefit. I think the incentives are doing their job, they're attracting companies as they're supposed to, and I think it's putting a positive impact on the economy. So, sorry. [LR444]

SENATOR SCHUMACHER: Okay. Thank you. [LR444]

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

SENATOR DUBAS: Thank you, Senator Harms. I think I sort of know where Senator Schumacher is going and he can tell me if I'm right or wrong. [LR444]

SENATOR SCHUMACHER: (Inaudible). [LR444]

SENATOR DUBAS: Okay. The companies that are in Omaha or anywhere else across the state that are still very good companies, contributing to our economy, doing all kinds of good things, but they don't meet any of these qualifications. They can't qualify for any incentives. [LR444]

MARK NORMAN: Okay, sure. [LR444]

SENATOR DUBAS: Number one, are you hearing from any of your members that don't qualify for incentives, well, I'm an important part of the economy as well. What are you

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doing to help me? And what makes those companies so much better or why are we working so hard to attract those types of companies versus across the board helping everybody grow? [LR444]

MARK NORMAN: Well, we have a very aggressive existing industry outreach program within the partnership area. And so we're going out and we're talking with those existing companies and saying, here are the programs that are available for you that can help you grow if you decide to and you have the opportunity to do that in Nebraska. Now it may be Nebraska Advantage, it may be a job-training opportunity, it may be working with the community college or the university system. So we're out there making sure that we're talking with them about the whole variety of programs that are out there. And again, I think that we try to educate them about Nebraska Advantage to say that, you know, you may be only adding X number of employees a year or adding X amount of capital investment. But if you aggregate that over a period of years, you could qualify for that. So we're out there talking with them and making sure that they're aware of the ability to access those programs if they can qualify for them. So again, I think, you know, in looking at the variety of programs that are out there--it's getting off kind of into a different area of beyond kind of what your focus is--but are there some other incentive programs out there for maybe some existing business that can provide them some benefit to help them make that decision to pull the trigger to grow and expand here? I think, you know, there could be some areas for that. And it's going to be, you know, a little bit different maybe in Kearney or Grand Island or Hastings, you know, where they need to focus on a lot more training and the ability to attract people into the area as opposed to other parts of the state. So again, flexibility in the program, I think, is key. [LR444]

SENATOR DUBAS: But as you go out and talk to people throughout your business community, I mean, there may be those businesses that, just by the nature of their business, are not going to ever grow or... [LR444]

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MARK NORMAN: Sure. [LR444]

SENATOR DUBAS: ...meet the kind of qualifications that our incentive programs have. Are you hearing anything from them saying, you know, are we less valuable, are we more? What are you doing to help us as maybe a smaller business that won't ever quite reach that place? [LR444]

MARK NORMAN: No. Yeah, okay, yeah. No, we're not really hearing that. I mean, I think they're saying that, you know, hey, if I'm going to grow too, then I ought to be able to get what the new company gets. So that's where it comes into the education of here, if you meet these qualifications, you're going to qualify for that too. And most of the time it is an education process where they don't realize...they think it's only for new companies coming in. They don't realize an existing company can qualify for it as well, as long as you're meeting these certain requirements. So for those folks that are not growing, are just stable, we don't really hear them complaining. But a lot of them are saying that we've got to grow our economy, get more business activity into the area, and that's what's going to help me. That's going to help me grow as a company, if I've got more activity, more people, more things happening in the local economy. [LR444]

SENATOR DUBAS: Thank you. [LR444]

MARK NORMAN: Yeah. I apologize if that's what you were... [LR444]

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

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

SENATOR HARMS: You're welcome. [LR444]

SENATOR DAVIS: Just a couple of questions. You made reference earlier to one of the

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programs that you thought which was good, which was wage...the wage compensation aspect. [LR444]

MARK NORMAN: Yes. [LR444]

SENATOR DAVIS: Can you elaborate on that a little bit more and tell us why that works and how is it used? [LR444]

MARK NORMAN: Well, essentially, it is based on the wages that are paid. So the higher the wage, the higher your compensation credit is going to be. As you generate that pool of credits, you'll be able to divert the withholding stream that you pay on a quarterly basis, I believe, and send that to the state. So you're going to be able to have that direct benefit every quarter. You're going to be able to say, I saved 4 percent, I saved 5 percent off of my bottom line. And so they're going to be able to utilize that throughout the seven-year life of the entitlement of the program. And as they continue--which is a nice thing--you know, some states, they're going to say, like, I'm just going to create 30 jobs and then that's all the benefit that you get for it. But with Nebraska Advantage, right, you're going to be able to, if you create 30, you're going to get that. If you create 35 jobs, you're going to get it on all 35. So it's graduated and your benefit grows. So that encourages them to grow and add more employees. So that's a nice thing that's an immediate benefit for them and it's a monetized credit so they're able to say, all right, I can see that coming through. I know on some of the tax credits a lot of times it's tough to monetize that and there's a lot of unused credits that are out there. And so it's something that's immediate impact for them. [LR444]

SENATOR DAVIS: Do you have any good idea of the number of job openings in the city of Omaha? Are there lots of jobs that are going unfilled? [LR444]

MARK NORMAN: There are jobs that are unfilled. But we also have, as was mentioned earlier, even though we're at 3.5 percent, 4 percent unemployment, we've got 12,000,

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13,000 folks that are unemployed. We often quote, you know, there's probably two to three times that that are underemployed that are working two jobs or need...you know, have a mismatch on their skills to their current jobs. So I think that our focus is we're trying to bring in jobs that are going to provide the opportunity for those folks to step up, either step into a job and learn some new skills or step into a higher paying job, higher skilled job. So, you know, and that's always the challenge is those jobs that are highly skilled are harder to fill. [LR444]

SENATOR DAVIS: You know, we learned from the Tax Commissioner this morning...you probably heard my question to Ms. Fry about the number of jobs that are basically in the \$12- to \$15-an-hour category. And from the data this morning, it looked like that was the vast majority of the jobs that have been generated through the Advantage Program. Do you have any comments on that? [LR444]

MARK NORMAN: And I don't know the numbers for us. But a lot of it, the jobs that we're looking at that are coming into us are going to be what I consider market rate or above. And we essentially tell folks, if you're not at market rate or above, it could be difficult for you. So...and again, each sector is going to have kind of a different market rate. So your industrial is going to have a different market rate than what your customer service rep is, as to your IT professional. And so we're seeing a market rate for each of those particular sectors. [LR444]

SENATOR DAVIS: And so you have an idea of what the market rate would be in Omaha for each of those sectors? [LR444]

MARK NORMAN: Yeah, we have. And we base that a lot off the BLS data. But then also we have EMSI data, which is a system that we pay for that kind of tracks different workforce numbers out there and gives us current numbers. [LR444]

SENATOR DAVIS: What kind of jobs are going unfilled in Omaha? [LR444]

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MARK NORMAN: You know, and it's...again, probably the more higher skilled, specific skilled jobs are out there. And it's typically, you know, and that's the challenge is that, you know, maybe I only have two jobs of the two types of the skills that I need in my organization. And that's the tough one to fill. But typically, I mean, your IT jobs are going to be difficult. Very competitive market right now. You know, some of the back office type operations are. But I'm going to say it's more of the IT, skilled, engineering type of jobs. [LR444]

SENATOR DAVIS: So when we were in Kearney yesterday, we heard it was tool and die, engineers, nursing. I think I'm missing a couple, but... [LR444]

MARK NORMAN: Yeah. [LR444]

SENATOR DAVIS: You think you're in pretty good shape with that. So it's more of a local rather than a statewide shortage, we have local. [LR444]

MARK NORMAN: Yeah. You know, our tool and die guys are always looking for good tool and die. And they're always going to have a couple of openings, probably. You know, so I think it's a situation where, if they can find a good person, they're going to grab them and hire them because they know that they will need them in the future. So, yeah, I mean, it's... [LR444]

SENATOR DAVIS: And IT jobs are pretty good paying jobs, correct? [LR444]

MARK NORMAN: Yes. [LR444]

SENATOR DAVIS: So are we doing enough at the college and community college level to prepare people or steer them to think about those careers? [LR444]

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MARK NORMAN: I won't get into kind of the details of the training aspect, but I think we've got a lot of good training programs out there, customized job training programs, a great program. We've got great relationships with the local colleges in Omaha, at Bellevue University, UNO, the community college system, Metro, great system. And so we have a very close working relationship with them. And they're very responsive to the needs of business. So when a business says, hey, I need to look at this, they're willing to work with them and partner with the company. And I think that's a key thing is that we can get the company to partner with the colleges, the educational institutions. That's when you really get the good payback. [LR444]

SENATOR DAVIS: And I guess the last question, which is kind of along that same line, so one of the things that I observe about Nebraska is rural Nebraska exports its young people to the urban areas and urban Nebraska exports its kids to Chicago and etcetera, which I wonder...and so we get to this IT question. If we're doing the training, are the salaries good enough to keep people here? Or are they lured away by better salaries elsewhere? [LR444]

MARK NORMAN: And I think the key for us, our strategy is that we've got to have the jobs locally here for them so they have the choice to make that here. And the market will drive the price that is willing to be paid to keep them here. You're always going to be having somewhere else that's going to have a higher salary. But then the cost of living there is also going to be dramatically different. You know, the San Francisco Bay Area is a huge attraction for IT folks. Hard to compete against that wage structure they have out there. But then when they realize the cost of housing out there and living and the commute times, I think we have a lot to offer there as well, so. Again, we just...the key thing, though, is having a good quality job for them to stay in Nebraska for. [LR444]

SENATOR DAVIS: Thank you. [LR444]

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

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Seeing none, Mark, thank you very much. [LR444]

MARK NORMAN: Thank you. [LR444]

SENATOR HARMS: Chad Denton. Welcome, Chad. [LR444]

CHAD DENTON: Hi, how are you? [LR444]

SENATOR HARMS: Fine. [LR444]

CHAD DENTON: Good afternoon, Mr. Chairman, committee members. My name is Chad Denton, C-h-a-d D-e-n-t-o-n. And I'm here today speaking on behalf of the Nebraska Chamber of Commerce as well as the Lincoln Chamber of Commerce. I'm a State Chamber board member and I serve as their chairman of economic development. With only about five minutes, my primary message is to convey our openness and willingness, as stakeholders, to work with you to identify the proper evaluation of the tax incentive programs. Economic development, creating and retaining jobs and investment in our state, is critical. And the incentive programs play an important role of creating stronger business climate. The marketplace isn't local for most of our businesses, it's regional, it's national, or it's even global. And so competing on that marketplace does require things like these incentives. Thus, as we talk about incentives and move toward evaluating the effectiveness, it's extremely important to us that we identify accurate measurements so that we do not create any uncertainty in the marketplace related to Nebraska and/or Nebraska business incentives. Like Mark, to stay on task, I went through The Pew Charitable Trusts. They had identified six key issues. And so we went through and created general comments in various areas. Pew addressed an evaluation schedule, which is obviously important, but the timing should be discussed further. The business environment is very dynamic and there's a lot of information that can be gained by hindsight at both the micro and the macro level. So as I start looking at economic development and what happens over a four-year period, a seven-year period,

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I'm looking at macro items such as the economy in the Midwest, the general economy. Then you can move even more micro and you can look at this particular company. Did they qualify? They made an application, but did they qualify for the benefits? This company did qualify but did they exhaust their benefits? Did they realize all the benefits? And this company shut down after three years and had to repay a significant portion of what they received and didn't receive the rest of their carryforward benefits. Is that computed in that model? So just being aware of the time line and being able to understand that there are some attributes to the hindsight is something that came up. The second area--which I'm combining Section 2 about metrics and Section 5 about measurement--we absolutely agree with the Omaha Chamber, related to the need for economic modeling that evaluates both direct and indirect variables, including the multiplier effect. The catch is, being able to identify enough variables to provide information without tasking too much of a burden on the evaluator or the business. From the Nebraska Advantage Act application standpoint, the company makes an application. And when they make an application, within that application they're talking about who the taxpayer is, they're talking about the locations of that entity in Nebraska and what they do. They're providing employment forecasts, investment forecasts, financials for the taxpayer, federal returns, state returns, a W-3N, E-Verify information. And if they have multiple locations, they're actually providing values of products shipped from one location to the next. So there's a lot of information in that application. The second thing that they do is they complete a yearly 312N, which is the document that identifies the employment and investment, what are my levels? I looked this morning before I came here and there's 28 pages. Now that includes both the form and the instructions. But there's 28 pages to that document. And then those companies will also go through an audit. And that audit is about a 9- to 12-month period of time. And during that audit, they're supporting all that information that was on that 312N. So when the auditors come out, they'll be providing W-2s for all those employees, W3-N, which is compilation reports to all those W-2s, by year. They're going to provide employment information by employee, by year, by hour type, by wage type. On the asset side, they're going from tax depreciation to progress project cards, what made up the asset, to actual copies of

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invoices that make up the asset. So there is a lot of information already provided. And I guess we're just asking that you be cognizant in that process to be aware of what's already out there and what we may be able to use and then what becomes necessary information as part of this process. The final comment is related to whom should conduct the evaluation. At the current stage in this process, there's certainly not consensus. I don't know the answer. But the common thread or the common message was flexibility. Is there someone working on this evaluation that understands these incentives, that can talk about why doesn't a retailer qualify or why does this retailer qualify? What is an attainment period, entitlement period. Why can't this entity distribute credits? Is there someone that has hands-on knowledge of the process? I was out in the field. And that company stayed...there was a consolidation of ten companies, ten sites. Seven remained and Nebraska was one of those seven, where this business here, located here, only because of this business or something like that. And somebody who understands economic modeling, the effect of a new job and those wages paid, what is that percentage. And on the multiplier effect, where are they spending their money? Are they paying sales and use taxes? What is that activity that they're creating? The time line...there is an end date. So a company makes an application, and when they make an application, there is an end date in that application. And when that end date is over, there are not any more benefits that are coming to that company. So from that perspective, there is a point in time that they will not get any more benefits unless they continue to grow, at which point in time they would make a new application. And again, the modeling piece of the multiplier effect for a manufacturer, to the point that we bring in a new manufacturer to Nebraska, hopefully, they will search for component parts through our current base of manufacturers. Will that produce more benefits to our current businesses? There are a lot of attributes important to the modeling piece, and it may or may not be resident in one group. Thanks for your time, and we appreciate the opportunity to be in front of you today. [LR444]

SENATOR HARMS: Thank you for your testimony, Mark (sic). [LR444]

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CHAD DENTON: Yes, sir. [LR444]

SENATOR HARMS: Do we have any questions for Mark (sic)? Senator Schumacher. [LR444]

SENATOR SCHUMACHER: Thank you, Senator Harms. Thank you for your testimony today. It seems, from what we heard this morning and this afternoon, again, that the compensation credit is kind of a popular component of this. [LR444]

CHAD DENTON: Yeah. [LR444]

SENATOR SCHUMACHER: Is that fair to say? [LR444]

CHAD DENTON: Yeah. [LR444]

SENATOR SCHUMACHER: Of a typical incentive company, what percentage of its payroll is covered by the compensation credit? It must be somewhere between zero and 6.84 percent. Is that accurate? [LR444]

CHAD DENTON: The credit computation will be based on anywhere from 3 percent to 6 percent of that person's wages. So the credit computation is based on that 3 percent to 6 percent threshold. And so it's capped at 6 percent from a credit standpoint, if that's your question. [LR444]

SENATOR SCHUMACHER: So a little bit less than the income tax rate... [LR444]

CHAD DENTON: Correct. [LR444]

SENATOR SCHUMACHER: ...basically. And so what this means is in a roundabout way, the state says to the incented business, we will pick up 3 percent to 6 percent of

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your payroll. Is that how it works out? [LR444]

CHAD DENTON: The state is saying, we're going to offer you these credits that are pay for performance. And as a result of establishing these credits, you have limited mechanisms to cash it out, cash out the credit because it's only what you're paying in. So from the perspective they have employee withholding, which would be that percentage, or they have sales tax or they have income tax. So they have those three components. [LR444]

SENATOR SCHUMACHER: But the...is the compensation credit then keeping the employees' withholding? Is that what (inaudible) it? [LR444]

CHAD DENTON: A portion of only those new employees, yes. [LR444]

SENATOR SCHUMACHER: Okay, so that's how they get...basically, instead of sending...they withhold from the employee. Instead of sending it to the state, they get to keep... [LR444]

CHAD DENTON: That percentage. [LR444]

SENATOR SCHUMACHER: That percentage. [LR444]

CHAD DENTON: And if they're at a 3 percent credit, that's their amount. And the withholdings are 4 percent or 5 percent, they'll get that 3 percent. That's their benefit. [LR444]

SENATOR SCHUMACHER: On a 3 percent... [LR444]

CHAD DENTON: If the person is withholding 5 percent... [LR444]

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SENATOR SCHUMACHER: Okay. [LR444]

CHAD DENTON: ...and the credit is 3 percent, they're obviously limited to 3 percent.
[LR444]

SENATOR SCHUMACHER: Okay, so. I think I understand now. Thank you. [LR444]

SENATOR HARMS: Thank you, Senator Schumacher. Any other questions? Senator Hadley. [LR444]

SENATOR HADLEY: Thank you, Senator Harms. (Inaudible) just a couple of questions. When we were doing...we had a couple of bills before the Revenue Committee dealing with taxes and tax rates and such as that. And the comment we heard a lot from business and industry is that volatility and changing of our tax policies is not well received by the business community because of their inability to plan. [LR444]

CHAD DENTON: Right. [LR444]

SENATOR HADLEY: Is that a fair statement? [LR444]

CHAD DENTON: That is fair. [LR444]

SENATOR HADLEY: That... [LR444]

CHAD DENTON: The companies want consistency. And as soon as they don't find consistency, even if it's a perception, are you able to attract that next business? Or is that one of the factors they're considering on whether this program will stay around or...
[LR444]

SENATOR HADLEY: Or not, okay. [LR444]

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CHAD DENTON: ...the tax climate. [LR444]

SENATOR HADLEY: The second point...and sometimes in economic development, we seem to spend a lot of time talking about luring a company from some other state. You know, we're going to get somebody from Illinois or Ohio or something like that. But I look around the state of Nebraska and I think of the large employers in Nebraska that have the ability to shift resources out of Nebraska. And I could take Kearney as an example. We have Baldwin Filters that has a plant in South Dakota. And they have the ability to shift workforce and investment between them; Eaton, Union Pacific, ConAgra, First Data. So I think we have to make sure that we don't always just think in terms of trying to lure businesses from other states. But as Senator Dubas said, what can we do to help our own businesses in Nebraska continue to grow? Is that a... [LR444]

CHAD DENTON: Yes. I think retaining those is a goal of Nebraska Advantage that those existing companies, assuming they're growing, they will also qualify. And that there are multiple stories across the state on how it did keep a company here because of these incentive programs. Or won the new project; a new project was up and which of the five facilities will get this? And it ends up becoming Nebraska because of the incentive program, but for an existing business that we already had. [LR444]

SENATOR HADLEY: Thank you, Mr. Denton. Thank you. [LR444]

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

SENATOR DAVIS: Thank you, Senator. You both talked about the employment driven credit as being valuable. But, in fact, that's one of the smaller components. Most of it is investment credit. Would you like to elaborate on that aspect of the credits? [LR444]

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CHAD DENTON: The investment credit, I consider more of an anchor. In attracting a company or convincing an existing company to put more investment in the state, the more anchored down they get with real property or tangible personal property that's hard and heavy and not so easy to move, that anchors that company here. So from the perspective of getting a company to come here and then you anchor them in too, they are less inclined to move, because of the expense it took to get here, and more inclined to put the next project in the state because they are anchored in here. So the investment credit doesn't have the utilization of the employee withholding. So the investment credit is limited to sales tax and income tax. So the investment is important and there is...we do want that anchor. But I think a lot of the credits that go unused are established via the investment credit. [LR444]

SENATOR DAVIS: And why do you say that? [LR444]

CHAD DENTON: Because you really do, under Nebraska Advantage, only have a few vices. It is a pay-for-performance program. So therefore, the state is not going to cut you a check. Instead, they're going to look at where the company--or in the specific case of the withholding--what was paid in because of the project. So in the case of the investment credit, the only way I'm going to cash out and realize any dollars from that investment credit is to prove up sales tax that I paid on my operations, on assets or expenses or through income tax. [LR444]

SENATOR DAVIS: Okay. I think I follow. Thank you. [LR444]

SENATOR HARMS: Thank you, Senator Davis. Do we have any other questions? Seeing none, Chad, thank you very much. [LR444]

CHAD DENTON: Thank you, sir. I appreciate it. [LR444]

SENATOR HARMS: I apologize, I called you Mark once. Hope I can get everything else

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straight. So thank you very much, I appreciate it. [LR444]

CHAD DENTON: Thank you very much. I appreciate your time. [LR444]

SENATOR HARMS: Yeah, you're welcome. Now we open it up for any other public comments. [LR444]

STEVE GLENN: Chairman Harms, members of the...Senators, thank you for allowing me to be here. [LR444]

SENATOR HARMS: You're welcome. [LR444]

STEVE GLENN: My name is Steve Glenn, G-l-e-n-n, from Pawnee City, Nebraska. I thank you for the opportunity to comment on tax incentives for small...for business in Nebraska. I am from Pawnee City, Nebraska. I'm the CEO of Executive Travel here in Lincoln, Nebraska. And today, first and foremost, I'm here to thank you, as senators, for building a very positive business climate in Nebraska. We are the envy of many states in our nation, a lot of it because of the climate you have set with spending within your means and running a very good state government. And I would applaud you first and foremost for that. I also am here in support of the current business climate as well as the Nebraska Advantage program. The business climate that we see today is very positive. And as you know, as companies are successful, they generate the jobs, which generate the taxes, which benefit our state. And one of the questions that was asked by several senators was, does benefiting a few at the top help a small business like Executive Travel? And the answer is clearly, yes, because if those large companies can create jobs, good-paying jobs and those jobs generate taxes, even though I don't do business with ConAgra, if ConAgra is successful, that allows me to be successful as a small businessman. So there is an effect, even though I don't take advantage of the Tax Act as it is. With that being said, I'd also like to address the comments that many of you've made about small business because, let's face it, large business is an apple and

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small business is an orange. And this Tax Advantage Act doesn't get down to the oranges. And I have started 40 companies in my career. My wife Marie and I currently operate seven businesses. I'd like to share with you something that I think should be very powerful. Just a few days ago, our family had two companies in the Inc. Magazine fastest growing companies in the United States, the 5,000 fastest growing companies. There are 28 companies in the state of Nebraska and our family has 2 of those companies. Despite that success, despite leading the area of growth, we were not able to identify one program with the state of Nebraska that we could take advantage of by either company. There's a gaping hole in this process because small business can't access it. And I want to share with you a philosophy. And I hope you take this positively, it's how it's intended to be. But if I ask all of you who is creating the jobs today, would it be fair to say that you would probably say small business? That's where the jobs are being created in our country and in our state, yet we really don't have a focus on economic development for small business and rural Nebraska, which we really, really need. And my point here today is, if I have two companies that are extremely successful, yet I have no access to any programs to help me make it more successful, then I think we have a hole we need to hopefully identify. And if you would look at the structure of this whole process, tax credits are great, but do you know of any small businessman in your communities and your districts? They're worried about making payroll next week. They're not worried about where they get a tax credit. And that's a structural issue we have to...we should at least ask about how do we build a program that will address that small businessperson. I would like to compliment, however, even the engines...the people that are making the engines work for this tax credit at big business; we have been very successful. The Greater Omaha Chamber, I think we should applaud. The State Chamber, we should applaud. The Lincoln Chamber, we should applaud for their great efforts. And even, most importantly to a small businessman, the Nebraska bankers of our state because they've been the economic development engine is the bankers in those towns. And so I'm here to also applaud them for their great efforts. I thought of the motto of the Greater Omaha Chamber, "We Don't Coast" that they just came out with. And I thought, I think that's Nebraska, is, we

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are going to put our nose to the grindstone. And that's what small business does as well. But back to the issue of small business, and I will be brief from here. I bought a company to move to rural Nebraska. That was my whole mission. And we have that company, it has ten people in Syracuse, Nebraska, home of Senator Watermeier in his district. And ten jobs to Syracuse, Nebraska, is like adding a thousand jobs to Lincoln, Nebraska. Think about it. Ten people, ten families, with maybe two kids apiece. That's 20 children in schools that take a school district and adds 5 percent to their number of kids in that school district. So as you can tell, my passion is about small business in rural Nebraska. And there's a lot of things that we can do. And we don't need to attack a great program that's working, the Nebraska Tax Advantage. I'm not here to attack it; I support it fully. I think we need to look at how we need to fine tune things and acknowledge flexibility and perhaps even structure of those incentives so that they can reach down to small business in rural Nebraska, which I think will benefit our whole state and complement the great job that the Tax Advantage program is doing in our larger cities with our larger companies. Thank you. [LR444]

SENATOR HARMS: Steve, thank you very much. Do we have any questions for Steve? Seeing none, thank you very much for your testimony. [LR444]

STEVE GLENN: Thanks. [LR444]

SENATOR HARMS: Anybody else who would like to testify? [LR444]

LYNN REX: Senator Harms and members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. My testimony will be very brief this afternoon, just to underscore the fact that I don't think you can look at the effectiveness of these state tax incentive programs without looking at the interrelationship of local programs. There are 208 municipalities in the state of Nebraska, local option sales tax; 64 municipalities have LB840 programs. And as you know, Article XIII, Section 2, is the only constitutional provision that gives localities, and

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in particular municipalities only, the authority to use local sources of revenue for economic or industrial projects or programs subject to a vote of the people. To underscore what Steve Glenn just told you, many, if not most, of those LB840 programs focus on the small business component. And all of them are involved, when the time comes, in working with the parties that have been testifying today and the parties that testified before your committee yesterday, in terms of trying to attract the "ABC Corporation" to their city or village and what are the incentives? How does the Nebraska Advantage work? How does LB775 work? And how does this interface with LB840? Whether those 64 municipalities with local option sales tax interface with that or not, you have other municipalities in this state--of which there are 530--that do not have, yet, voter-approved LB840 plans. But they, too, are being contacted by the same company that's being asked to have the LB775 or Nebraska Advantage Act program. They're coming to those cities asking for streets, roads, sewers, water, infrastructure; infrastructure, infrastructure, infrastructure. And in addition to that, the application of tax increment financing, when that property that they're applying with deals with substandard and blighted property. So again, I don't know if perhaps the scope of this is such that all it is is simply an asterisk at the end of the report saying, and by the way, for whatever reason, this does not take into consideration the application of LB840 programs, local option sales tax refunds, many of which have precluded cities from doing some of the small business incentives under LB840 because they lost money on the back end. When you're losing money with the refunds, whether or not you could project those or not, because of LB775 and Nebraska Advantage Act, it has impacted the ability of many cities to deliver the program that they committed to their voters to do within LB840 with voter approval because they lost money on the back end. And by "lost money," I guess you can't lose money you never had. So let me just state, by not having the projected revenue that they thought they would have from their local option sales tax. That being said, we're very grateful to the Legislature for giving municipalities the authority to have local option sales tax and voter approved local option sales tax. But these interrelationships are critical. Your state incentive program does not operate in isolation from what's going on with localities because, again, where does economic

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development occur? Unless you're talking about an ethanol plant or something of that nature, it occurs in and around municipalities. Why? Infrastructure, infrastructure, infrastructure. So I'd be happy to answer any questions you have. And again, really appreciate your patience and consideration of this important LR before you today. Thank you. [LR444]

SENATOR HARMS: I want to thank you for your testimony. Do we have any questions? Seeing none, thank you very much. [LR444]

LYNN REX: Thank you very much. Thanks. [LR444]

SENATOR HARMS: Do we have anyone else who would like to testify? Welcome. [LR444]

DOUG EWALD: Senator Harms, other Senators, my name is Doug Ewald, D-o-u-g E-w-a-l-d, former Nebraska Tax Commissioner, here representing myself. I've worked with many of you over the years and I'd just like to elaborate on a couple of things I heard today. Number one, certainty. Businesses want certainty out there. I think when you look at the national level, that's a lot of stuff that's going on today. But there's not a lot of certainty going out of Washington, D.C. There's a number of programs that have sunset; whether they're going to be put back in or not put back in. We know when certain things like that happen, business tends to just kind of pause with respect to what they're doing. So, certainty is important. We have a program here that's performance based. If you're going to have a program, I think it needs to be performance based and you do ABC, you get XYZ. The other thing that I heard repeatedly here today was, this isn't easy. I worked with Martha Carter and her group anyway trying to put their arms around this thing a couple of years ago. And if you're new to it, there's a lot of work. There's a lot of work that's in the Department of Revenue. There's a lot of work with the Legislative Performance Committee, trying to put their arms around it. Hence, there's a lot of work--and I've lived this--by the business community wrapping their arms around

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the annual compliance requirements. They are extensive. Is there a easier way to do it? I don't know. But I just threw those comments out there, maybe open it up to questions that anyone might have. [LR444]

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

SENATOR KRIST: Fair disclosure, I sent Doug a note and asked him to come up and say a few words so I could ask him a couple of questions. We've heard this morning and alluded to this afternoon, the need for--and that's why we're here--is the need for metrics. How do we measure? How do we evaluate whether something is going to work? Martha Carter and I had a conversation and we had a conversation off-line before the hearing, that somehow, someplace, if we ask for more metrics, there's going to have to be some additional manpower, maybe, and where that placement is best put. So in your professional opinion, given where you came from and where you are, is it best that we work out the confidentiality issues and have the legislative branch evaluate these? Or are we better to put an analysis team, if you will, whatever that is comprised of, inside of Revenue? [LR444]

DOUG EWALD: I think it could be a combination. I know today, the State Auditor's Office comes in every year and audits what's done in the Department of Revenue with respect to the different programs to make sure the appropriate amount of refunds are paid, we're in compliance with what's going on. The Department of Revenue, obviously, has the data. And if you can get your arms around the confidentiality issues associated with that, working with the business community, that's probably best to where the resources reside because they have the data and they, you know, they deal with it on a daily basis. And they're quite good at that, they know what...how to measure things, how to...depending on what you want to have measured, they can do it. Let me put it that way. [LR444]

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SENATOR KRIST: So the follow-on to that is, you know, you're never going to get a good answer unless you ask a good question. So we've been told and was told this morning, that that's not something that they measure and how to define those metrics. Is it up to the Legislature or to us to figure out what the metrics are and how to measure it? Or do we go back to those analysis teams and Revenue and say, what do you need or what do we need to make a good decision? [LR444]

DOUG EWALD: Right. I think it's a combination. You know, honestly, the department works for the executive branch, quite frankly. So I think that if you want something measured, it's a combination of the Governor's Office and the Legislature, honestly, to say, okay, we need to have some sort of agreement, some sort of compromise with respect to what we want to measure, where we want the work performed. [LR444]

SENATOR KRIST: Thank you. Thanks for coming up. [LR444]

DOUG EWALD: Okay. [LR444]

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

SENATOR SCHUMACHER: Thank you, Senator Harms. Thank you for coming, Doug. How hard is it, as a practical matter, to access information from the tax database that the department has? One of the issues that was talked about a bit this morning is getting a handle on how much of those 9,300 jobs were new jobs and how many were a churn on jobs from other employers. So if, let's say, we wanted to say, let's just take 100 of the new jobs and make case studies of them: where they came from; were their jobs replaced at the next level; was there an increase in salary; did it involve a move to a different town? I mean, is that a fairly easy thing to ask that database? [LR444]

DOUG EWALD: Well, I think it's difficult because you're going to have to interact with the Department of Labor to try to find out...okay, if you're going to follow "John Smith" all

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the way through the system, okay, where was he before he came to where he is now?
[LR444]

SENATOR SCHUMACHER: Okay. [LR444]

DOUG EWALD: And did he receive an increase in salary or, you know, when he made that move? So I think you would need to be able to have some sort of link or some sort of interaction with the Department of Labor to understand or basically go back to the W-2 database to say, okay, was this person working two jobs before and he went full time with someone else new? What was that particular person's fact pattern? So you would need to be able to capture that data. They're going to need to get all those W-2's electronically, which I think we're getting most of them now. But I think you need to be able to have the Department of Labor database as well as be able to track that history. So there's some additional work that needs performed there. But the extent of it, I can only guess right now. [LR444]

SENATOR SCHUMACHER: A sample, even a smaller sample... [LR444]

DOUG EWALD: Sure. [LR444]

SENATOR SCHUMACHER: ...of 100 would begin to build a picture, I would think, of exactly how people move through the system. [LR444]

DOUG EWALD: Right, you'd start to peel that...peel the onion and find out, okay, we're going to track some people that are making this much money versus this much money versus this much money because if we're trading jobs...okay, if somebody is moving up the chain, great. But we need to be...and I think you could probably do some sampling. [LR444]

SENATOR SCHUMACHER: Thank you. [LR444]

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SENATOR HARMS: Thank you, Senator Schumacher. Do we have any other questions for Doug? Seeing none, thank you very much for your testimony. [LR444]

DOUG EWALD: Thank you. [LR444]

SENATOR HARMS: Do we have anyone else who would like to testify? Welcome. [LR444]

JAMIE BREWER: Thank you. Good afternoon. My name is Jamie Brewer, J-a-m-i-e B-r-e-w-e-r. I'm a CPA at Bland and Associates out of Omaha. Today, what I'd like to relay to you is what we're seeing with the compliance piece of the Nebraska Microenterprise Tax Incentive Credit. We historically have filled out numerous of these applications and prepare those for our clients at our office. We've cut back significantly just because of the compliance piece and the inconsistency that's been taking place there. A few examples of what we're seeing, credits that have been approved, later denied by the Department of Revenue. We've had Department of Revenue requesting additional information, done everything to comply with that information, and then coming back and indicating that the application should not have been approved in the first place and denying. We've also seen inconsistency in how wages or the new employment are calculated. Using box 1 on the W-2's, which is "wages subject to federal income tax" instead of box 5, which would be "wages subject to Medicare tax" to calculate this, when, in fact, a Nebraska regulation indicates that wages are the box 5, "wages subject to Medicare tax." The reason why that's important is employers can't control how much their employees contribute to a 401(k), which would reduce their federal income tax and then ultimately reduce the amount of credit they're receiving for this increase in new employment. We've also seen businesses that had started off small, filing their taxes on a Schedule C, their personal income tax return, then later incorporating. And the bottom-line net earnings from their Schedule C has to be factored in as their base year for employment or wages. That was a change that just recently took effect about a year

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ago, a year and half ago, which had never been the case from the time the credit started through 2012. In addition, we're not hearing anything back from Department of Revenue. Once they've requested additional information, we've never heard. They don't send a close-out letter. We're not hearing anything back. They're going back and auditing for the last three years, these credits, and requesting the monies back from taxpayers that have already received a credit. That's a huge hit for some small businesses to request back a \$10,000 credit when they were previously approved and checks had been written. For us, it's frustration. We're helping our clients out with these applications and filing it on their tax returns. So we're definitely frustrated, we're trying to...at this point, we're trying to cut back in the amount of clients that we're helping them with this credit on, helping them with the application. It's just become so costly and timely for us to deal with that. Overall, my message here is just to convey the inconsistency in the compliance piece and what we're seeing on our end. Thank you for the testimony. [LR444]

SENATOR HARMS: Thank you for your testimony. Your first name was Jamie, correct? [LR444]

JAMIE BREWER: Jamie, yes. [LR444]

SENATOR HARMS: Thank you very much, Jamie. Do you have any questions for Jamie? Senator Schumacher. [LR444]

SENATOR SCHUMACHER: Thank you, Senator Harms. This is the Microenterprise fund? [LR444]

JAMIE BREWER: Correct. [LR444]

SENATOR SCHUMACHER: That's a \$10,000 limit one? [LR444]

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JAMIE BREWER: Yes, correct. [LR444]

SENATOR SCHUMACHER: Okay, because we had some questions this morning about, as a practical matter, why it wasn't being utilized. And one of the conjectures that was articulated was that the overhead, the compliance, something might have...be playing that. How does...I mean, let's say we're a small business and you thought you might qualify for this credit. As a practical matter, what do you do? Do you go to your lawyer, your accountant, do you just write or get on the Internet and print out a form? What do you do and what hassle is there involved in getting it and keeping it? [LR444]

JAMIE BREWER: As far as our clients, we normally are the ones that first introduce them to this credit. They are unaware of this Microenterprise Credit Incentive. So we're the ones that are introducing it to them. We're helping them with the application. [LR444]

SENATOR SCHUMACHER: They come to you with their income taxes, is that how they get... [LR444]

JAMIE BREWER: Correct, yeah. [LR444]

SENATOR SCHUMACHER: Okay, all right. [LR444]

JAMIE BREWER: Yep, they file for this credit on their income tax return...their Nebraska income tax return. Then they have to send every documentation to document any increase in investment, any increase in employment. So invoices for fixed assets purchased or professional fees, advertising they have to have all those invoices. A copy has to be sent in with their tax return claiming this credit as well as E-Verify documents for all of their employees that they have hired since the credit had started. They also have to send in all of their W-2 information, the W-3N, the W-2's for any employment information for the new growth in employment piece. So it's a very time consuming,

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going back gathering all those documents, going through making sure everything checks out, sending it in the way that the Department of Revenue wants it. [LR444]

SENATOR SCHUMACHER: And accountants or lawyers typically help the client do this? [LR444]

JAMIE BREWER: Correct. [LR444]

SENATOR SCHUMACHER: Of that \$10,000 they get, how much do they end up spending on application and compliance? [LR444]

JAMIE BREWER: We charge our clients around the \$500 mark to help them with this. We're finding that we just can't do it anymore with that. It's too costly for us, it's too time consuming, that it's not worth it for us to even bring the credit up to the taxpayer, even try to help them with it. It's too costly for us to do. [LR444]

SENATOR SCHUMACHER: Plus, I suppose, a bit hard to explain to a client how the \$10,000 you got them has got to go back. [LR444]

JAMIE BREWER: Correct. [LR444]

SENATOR SCHUMACHER: That's kind of a tough... [LR444]

JAMIE BREWER: Right. [LR444]

SENATOR SCHUMACHER: So basically, \$500 doesn't cover the expense and isn't worth it for you. [LR444]

JAMIE BREWER: Correct. [LR444]

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SENATOR SCHUMACHER: And anything more may make the \$10,000 not worth it to the client. [LR444]

JAMIE BREWER: Correct. [LR444]

SENATOR SCHUMACHER: Plus, they've got all this extra opportunity for the government to stick its nose in their books. [LR444]

JAMIE BREWER: Right. That's right. [LR444]

SENATOR SCHUMACHER: Thank you. [LR444]

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

SENATOR DAVIS: Thank you, Senator Harms. Just to follow up a little bit on some of those questions. Some of the points you make seem to me to be so elemental that I can't imagine the Department of Revenue isn't dealing with it properly, like the box. When you've addressed that with them, what kind of an answer do you get? [LR444]

JAMIE BREWER: We have addressed that with them multiple times. The answer was, the W-2 wages would be calculated on box 1, which is "wages subject to federal income tax" because the Revenue regulation that states "wages are box 5" came out after the Microenterprise Credit had been started. We've ventured into potentially getting a lawyer or attorney involved in this. At this point, it's just too costly for us to do to fight that. And so we're seeing them go back and asking for their money back, going back and auditing previously approved credits that were paid out, just on that piece alone. [LR444]

SENATOR DAVIS: So assuming that you've done everything correctly, the Department of Revenue now has changed their interpretation. There have to be many other cases

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just like this around the state. Are you aware that is, in fact, the case? [LR444]

JAMIE BREWER: Correct, yes. Speaking with other CPA firms, we're seeing...they're seeing the same things that we are. [LR444]

SENATOR DAVIS: If I have another question, I'll come back. Thank you, Senator Harms. [LR444]

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

SENATOR KRIST: Just to follow on Senator Davis, you said you've been in contact with the Department of Revenue and they've given you the answers that they've given you. All in all, what I hear is that it's inconsistent and that it's too time consuming for a small business to move that way. And there are other people in the crowd whose head is shaking "yes." Do you have some ideas? I mean, you said it's very onerous. There's a lot of data, there's a lot of...do you have an idea of how this package could be put together and better used besides block 5 versus block 1? I mean, obviously, if you were giving away your money, you would require all of those things. And I guess what I'm hearing is, all those things are not necessarily required in order to validate it. Is that...am I hearing it correctly? [LR444]

JAMIE BREWER: Correct. I think the biggest thing here is the inconsistency. It's always been run a certain way. And then, you know, about a year, a year and a half ago, the compliance piece changed. And there was no regulation, there was no notice given. And for us, that's frustration in our jobs. As long as there is a set way that things are calculated, we're fine with that. [LR444]

SENATOR KRIST: Inconsistency. [LR444]

JAMIE BREWER: It's just, we need a regulation or we need notice or something. As of

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this date, we're changing the way we're calculating things. As of this date, we need the E-Verify confirmation. We've never received any notice of that. [LR444]

SENATOR KRIST: And that...it's important and it's relevant, I think, to our look at the whole thing, at the whole program, because, even though it's a very small piece of this investment, it's not being utilized to the maximum extent. If we're going to secure money to do that, if it's going to be part of the equation, then we need to make sure that it's being used to the max extent... [LR444]

JAMIE BREWER: Correct. [LR444]

SENATOR KRIST: ...or reduce the amount, so. Thank you very much for coming. [LR444]

JAMIE BREWER: Yep. [LR444]

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

SENATOR HADLEY: Senator Harms. Thank you and I appreciate your coming. It's interesting to hear that because I sat down two years ago and I had the president of the Society, I had CPAs from Omaha and Kearney and Lincoln to sit down with Revenue Department to try and work through some of the inconsistencies and some of the problems. And I thought, at that time, we had worked through a number of the concerns because we sat down with Mr. Ewald and his staff to work through that. So if there are other problems, I would certainly be willing to sit down again with the same people to talk about those kinds of things. Secondly, and I don't mean this as an offense of the Revenue Department, but they also...we have a State Auditor. And part of the State Auditor's job is to go to the Department of Revenue to see if they are interpreting and doing...implementing the Advantage Act and LB775 and the rest of them the way that

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our statute said they were to do it. And there's probably nothing more than a headline that says, Revenue Department, you know, gave money to five or eight firms that wasn't documented correctly. So I'm not defending them, but they also are being audited at this point in time as to how they do their job. But, again, I would be happy to work with the Society, CPA Society, to sit down with the Revenue Department again to talk about...because we do want to make it...the cost of obtaining information can't outweigh the benefits of having that information. [LR444]

SENATOR HARMS: Thank you, Senator Hadley. Senator Schumacher, did you have a follow-up question? [LR444]

SENATOR SCHUMACHER: Just a brief one, Senator Harms. Thank you. So part of the problem with the refunds was a regulation that was adopted that they applied retroactively? [LR444]

JAMIE BREWER: To my knowledge, there was no regulation that was...there was no new regulations that were adopted. [LR444]

SENATOR SCHUMACHER: Was it some kind of Revenue ruling or... [LR444]

JAMIE BREWER: Are you talking about with my comment on the W-2 wages, the box 1, box 5? [LR444]

SENATOR SCHUMACHER: Right. I mean... [LR444]

JAMIE BREWER: Or are you...just in general? [LR444]

SENATOR SCHUMACHER: Well, basically, I think I understood you to testify that you were merrily going along and making applications, taking this credit. Then all of a sudden there was 18 months ago a change of some kind occurred and some of the

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money had to be coughed back up. [LR444]

JAMIE BREWER: Right. [LR444]

SENATOR SCHUMACHER: And what I'm inquiring is, that change, was it a regulation or rule? Was it applied retroactively instead of prospectively? [LR444]

JAMIE BREWER: I believe the change came when Bill Weekly, at the Department Revenue, retired and another Revenue agent took over his position, then started going back auditing prior applications, prior refunds, requesting additional information when they had already been approved. They had already been through the process. And then changing the way that they're interpreting the compliance piece on these items. [LR444]

SENATOR SCHUMACHER: Has it been your experience that in your general auditing work, that this happens often, that a change of personality at the Revenue agent level brings about a whole different perspective or whole different set of what's requirements? [LR444]

JAMIE BREWER: No, not to my knowledge. [LR444]

SENATOR SCHUMACHER: So it's kind of been confined to this particular program? [LR444]

JAMIE BREWER: Correct. [LR444]

SENATOR SCHUMACHER: Okay, thank you. [LR444]

JAMIE BREWER: Yep. [LR444]

SENATOR HARMS: Thank you, Senator Schumacher. Senator Krist, you have a

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question? [LR444]

SENATOR KRIST: No. [LR444]

SENATOR HARMS: Okay. Do we have any other questions for Jamie? Jamie, thank you for your testimony. [LR444]

JAMIE BREWER: Thank you. [LR444]

SENATOR HARMS: Do we have anyone else who would like to testify? Seeing none, this closes the hearing on LR444 for our committee. We'll take a ten-minute break and then just come back for a few minutes. (See also Exhibits 3 and 4) [LR444]