

Legislative Performance Audit *Committee*

FOR IMMEDIATE RELEASE

CONTACT: Senator Dan Watermeier, (402) 269-7031

November 23, 2016

Nebraska Advantage Act Performance on Selected Measures

The Legislative Audit Office today released a report on the performance of the Nebraska Advantage Act on 13 measures. Performance Audit Committee chairman Senator Dan Watermeier noted that the report provides the Legislature with new information on Advantage Act projects and said he believes the value of the audit is “half about looking back at what the program has done and half about the future.”

The Performance Audit Committee will share information from a performance audit of the Nebraska Advantage Act with the Legislature’s Revenue Committee regarding a larger than expected impact on the state budget, and challenges to program administration because of the program’s complexity. Watermeier noted the program is projected to exceed the \$60 million per year impact discussed by the Legislature when the program was created by LB 312 in 2005, according to the report.

“Given the increased public interest in the cost of tax incentives, and the projected state budget shortfall in coming years, we need to talk about whether we can continue this program in its current form.” He added, “We also need to look at whether the program is more complicated than it needs to be, as the Tax Commissioner suggested in his written response to the draft audit report.”

Watermeier said the Audit Office found some positive developments. For example, the audit found that companies with Advantage Act projects increased their full-time workers between 2008 and 2014, although problems with existing data make it difficult to pin down the precise number. While the Act requires increases in full-time equivalents (FTEs), the Committee was interested in knowing whether the Advantage Act projects were increasing full-time positions. The audit also found that in several industry sectors, incentivized projects had a higher rate of growth in full-time workers than the corresponding statewide industry sectors.

Due to the data issues for measuring full-time worker growth, as well as other data matching problems confronted by the Audit Office, the Performance Audit Committee will be introducing an interim study related to issues around data collection and sharing, Watermeier said.

For several questions, the Audit Office reported the results of its analysis without judging whether those results were good or bad, explaining that policymakers have not indicated “how much” activity was needed to be considered successful. Watermeier used a question

about the number of Advantage Act companies that were new to the state as an example. “The Office found that 9 of the 78 companies with Advantage Act projects were new to Nebraska. As policymakers, we need to discuss whether we’re satisfied with that number or want to look at ways of boosting it.” The report noted that the Act has a goal of expanding businesses as well as bringing new businesses, so all of the participating companies were meeting one of the two goals.

Watermeier said the report’s estimated costs per new FTE created raise questions for policymakers as well. The Office reported an average cost per FTE range of \$24,500 to \$320,000, depending on whether the calculation includes all program benefits or only a portion of them, and whether the program is credited with creating all of the new FTEs or whether some would have been created even without the program.

“The cost per FTE estimates bring to light points that we need to consider. One is that most of us think of the Advantage Act as a job creation program, but the report shows that participating companies are earning much higher amounts of tax credits for their financial investments than for compensation credits earned on the FTEs created.”

The Audit Office was unable to address some questions the Committee was most interested in, which required the use of economic modeling software, including providing another perspective on the number of full-time positions incentivized companies created, and the larger impact of the program on the state economy. The modeling was to be done by the Legislative Fiscal Office but technical problems in getting that office the data it needed delayed the analysis. The two legislative offices are continuing to work with the Nebraska Department of Revenue to find a solution.

The report also provided a detailed analysis of the program’s fiscal impact on counties and cities.

The report is the first performance audit of a tax incentive program under a 2015 bill that requires all economic development tax incentives to receive such a review by the Legislative Audit Office at least once every three years. It is also the first in which the Office had access to confidential taxpayer data for its analysis.

END



**Nebraska Advantage Act
Performance on Selected Metrics**

**Performance Audit Committee
Nebraska Legislature**

November 2016

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I. Committee Recommendations

Audit Summary and Committee Recommendations

The Audit Office reviewed projects that received Advantage Act (Act) benefits between 2008, when the first companies received benefits, and December 31, 2014, the latest date for which the Nebraska Department of Revenue (Revenue) had confirmed figures when the audit began. During that period, 78 companies received benefits for 79 projects.

Nebraska Advantage Act Audit Conclusions

Due to limitations on existing data and statutory protections on taxpayer confidentiality, the Audit Office (Office) was unable to answer some of the questions that the Performance Audit Committee (Committee) was most interested in. Those questions include determining how many full-time positions incentivized companies created, as well as estimates of job growth and the larger impact of the program on the state economy that would have resulted from analysis using economic modeling software.

The Office continues to work to find a way to accomplish the economic modeling analyses and will issue a separate report on those metrics if one is found. However, the data limitations impacting the job growth analysis may require changes in the information incentivized companies report and how state agencies maintain necessary data, which will only be useful to future audits.

The metrics used in this audit were selected by policymakers several years after the Act's adoption, meaning the expected performance of the Act in relation to the metrics is largely unknown. Without a standard of expected performance, the Office could not make simple "yes" or "no" judgements about whether the reported performance meets policymakers expectations. Instead, the Office simply reports the results of the analysis for each metric.

The Audit Office does not assert that the actions of incentivized companies reported here were caused by their participation in Advantage Act. Because a company's actions may be the result of many factors, it is difficult, if not impossible, to prove the effect of participation in one program.

The results of the Office's analysis for each metric follow the Committee Recommendations.

Performance Audit Committee Recommendations

Recommendation 1: The Performance Audit Committee will share information with the Revenue Committee from pages 50-51 of the report, which shows that the Advantage Act has exceeded the original fiscal projections, for consideration of modification to the Act to address the program costs and the Tax Commissioner's concerns about the program's complexity, as noted in his written response to the draft report.

Section II: Advantage Act's Effect on the State Economy (Metrics 1-6)

Recommendation 2: To improve future evaluations, the Performance Audit Committee will introduce an interim study to identify ways to improve data matching between the Departments of Revenue, Labor, and Economic Development. The study committee should consider the need for:

- Requiring incentivized companies to identify the specific federal tax identification number(s) and unemployment insurance number(s) associated with their Advantage Act project employees;
- Requiring incentivized companies with multiple project locations to identify the specific location(s) of employment for their individual Advantage Act project employees;
- Additional reporting by all companies to the Labor Department, such as the hours worked, location, and occupation title for each employee; and
- Requiring the Labor Department to retain historical employee data for a longer period of time.

Recommendation 3: If the Legislature wants to know about full-time *positions* created by incentivized companies, not full-time equivalents, it may need to modify the Advantage Act to reflect that.

Recommendation 4: If the Audit and Fiscal offices are unable to resolve the data access problem relating to economic modeling analyses, the Performance Audit Committee will consider introducing a bill to allow the Legislative Fiscal Office access to aggregated confidential data necessary for such analyses.

Recommendation 5: Future performance audits would be improved if key terms were defined and benchmarks established to use in measuring the program's effectiveness.

Recommendation 6: If the Legislature considers attracting new businesses a priority, it may want to consider options research suggests are more important to businesses looking to relocate.

Section IV: Economic Impact (Metrics 8-9)

Recommendation 7: If the Legislature would like more precise costs for Advantage Act administration and promotion, it may need to require that the revenue and economic development agencies track expenditures by program. However, it may not be possible to do that in all instances. For example, according to the Department of Economic Development, it promotes all incentive programs together so it cannot break the expenses down by program.

Recommendation 8: The analysis of cost per full-time equivalents in future performance audits would be improved if the Legislature clarified whether investment constitutes a program goal in and of itself or if it is a strategy that supports the goal of job creation.

Section V: Fiscal Impact (Metrics 10-11)

Recommendation 9: If the Legislature is concerned about companies receiving benefits from multiple state programs, it could consider restrictions, such as prohibiting a company from participating in another state program within a certain time period, capping the dollar an individual company may receive, or increasing the requirements for participation after the initial project.

Scope Question 1: *Is the Advantage Act meeting the goal of strengthening the state’s economy overall by attracting new business to the state, expanding existing businesses, increasing employment, creating high-quality jobs, and increasing business investment?*

Job Growth

Metric 1: Did the number of full-time workers at incentivized projects increase between 2008 and 2014?

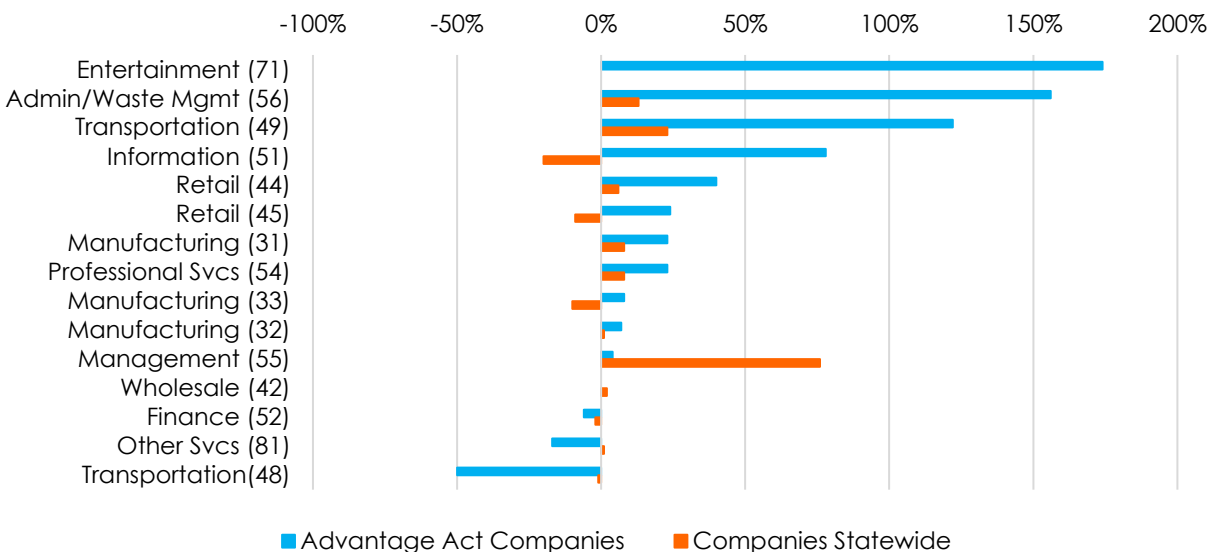
We estimate that the 68 Advantage Act projects we were able to analyze for this metric hired 2,968 additional full-time workers between 2008 and 2014. However, due to data limitations, this number may underestimate or overestimate the actual number.

Job Growth Compared to Statewide Industry Sectors

Metric 2: How did the increase in full-time workers at incentivized projects compare to the increase in the projects’ statewide industry sectors?

In 10 of the 15 industry sectors represented, incentivized projects had a **higher growth rate in full-time workers** than the corresponding statewide industry sectors.

Rate of Increase/Decrease in Full-time Workers

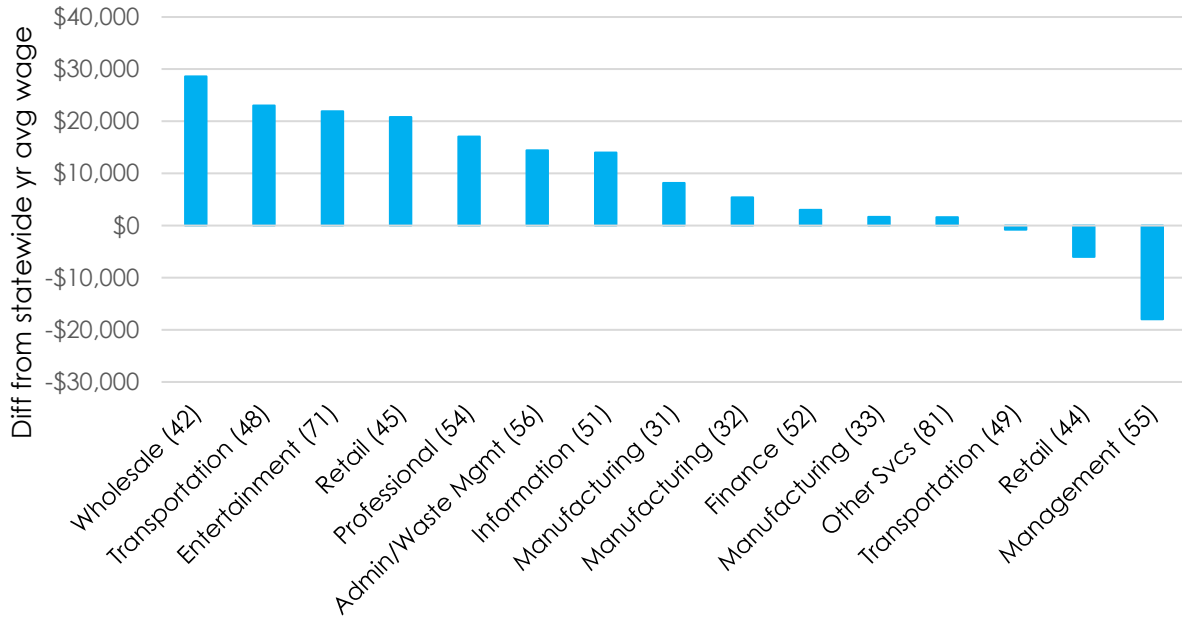


Source: Audit Office analysis of Labor Department data on Federal Identification Numbers for 68 projects.

Average Wages

Metric 3: Were the average wages of full-time workers at incentivized projects higher or lower than the average wages for the statewide industry sectors?

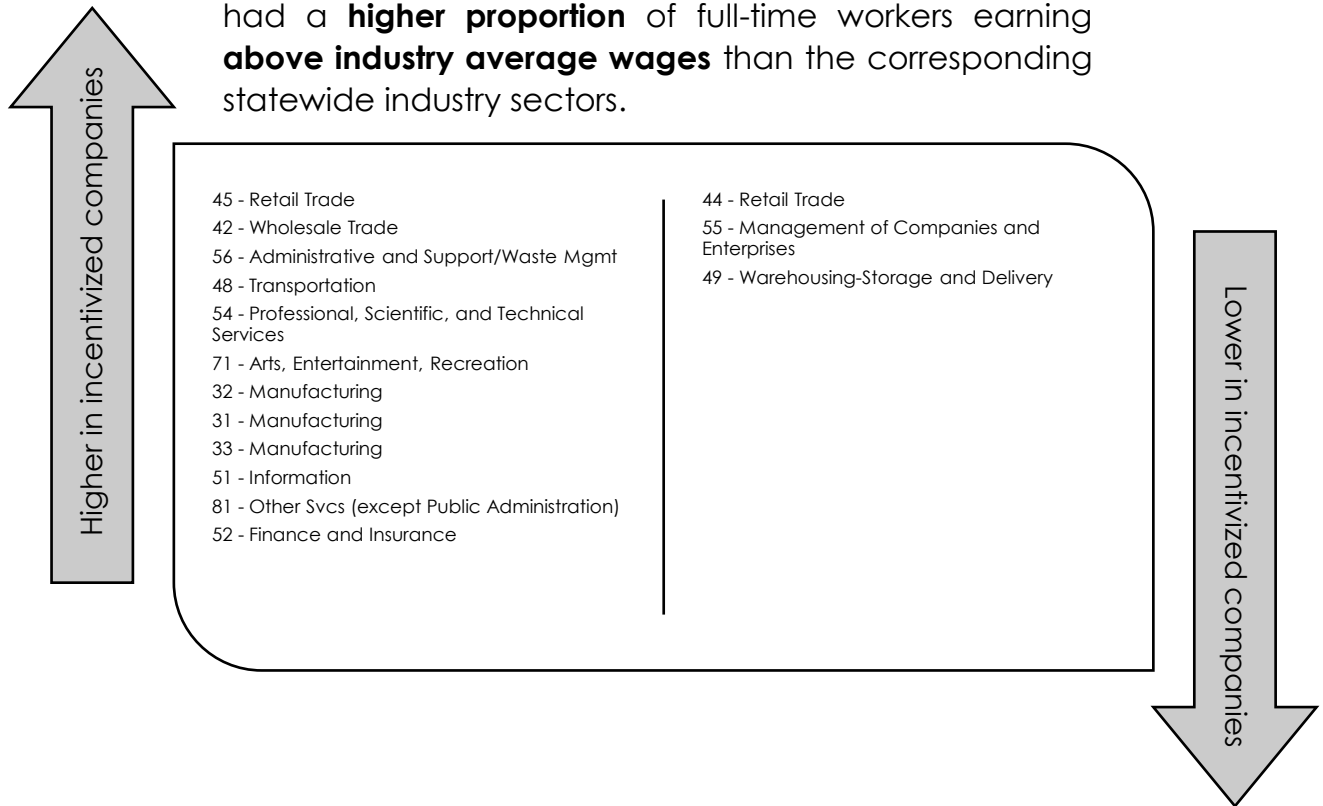
In 12 of the 15 industry sectors represented, incentivized projects had **higher yearly average wages** than the corresponding statewide industry sectors.



Source: Audit Office analysis of Labor Department data on Federal Identification Numbers for 68 projects.

We also compared the percentage of full-time workers at incentivized projects who earned above the average wage to the percentage of full-time workers who earned above the average wage in the corresponding statewide industry sectors. For all of the 12 sectors in which the incentivized projects paid a higher average wage than the industry statewide, the incentivized projects also had a higher percentage of employees earning more than the average wage.

In 12 of the 15 industry sectors, the incentivized projects had a **higher proportion** of full-time workers earning **above industry average wages** than the corresponding statewide industry sectors.

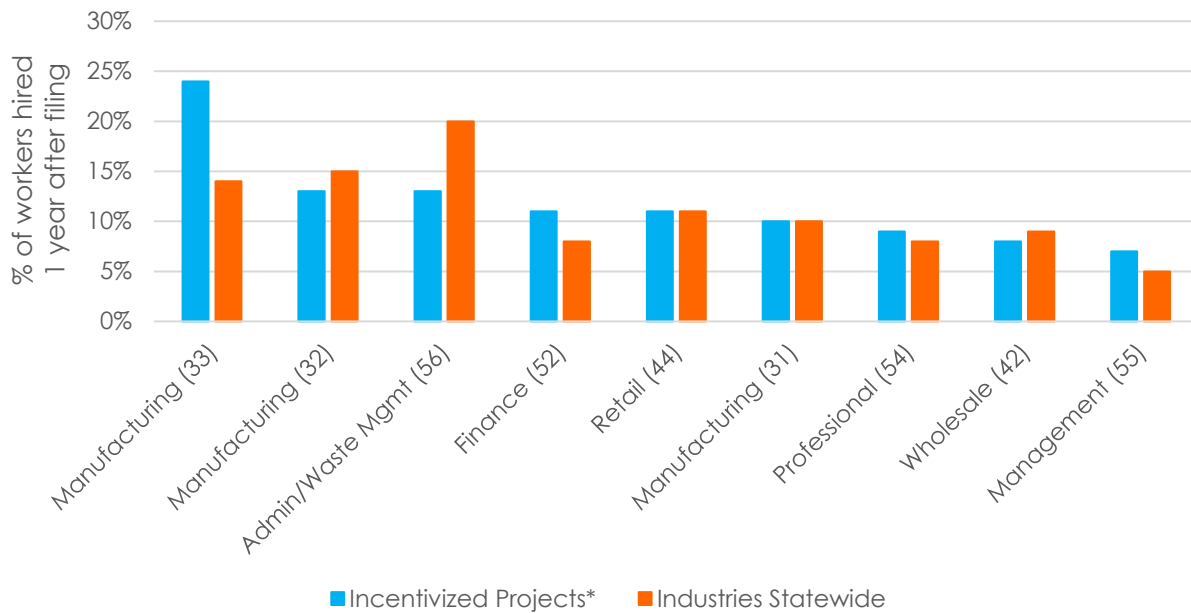


Source: Audit Office analysis of Labor Department data on Federal Identification Numbers for 68 projects.

Unemployment Insurance Claims Previous to Hire Date

Metric 4: How many newly hired full-time workers at incentivized projects filed for unemployment insurance in the year before they were hired at an incentivized project?

In 7 industry sectors, incentivized projects **hired more employees** who had **previously filed for unemployment** than the corresponding statewide industry sectors.



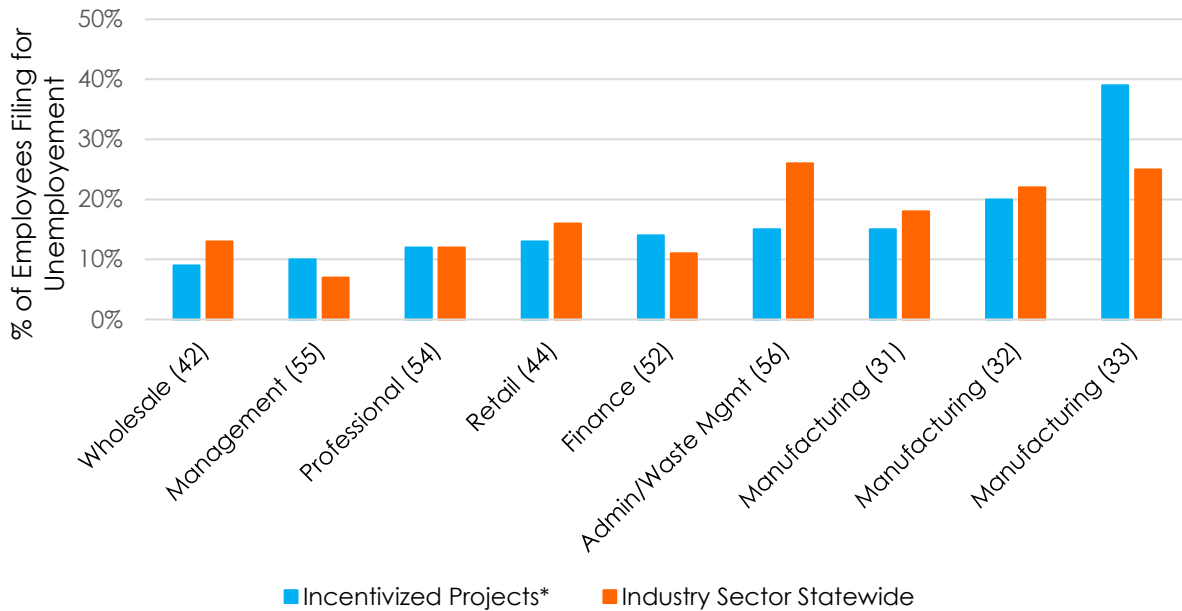
Source: Audit Office analysis of Labor Department data on Federal Identification Numbers for 68 projects.

* We analyzed all 15 industry sectors but to protect taxpayer confidentiality, we can only report the percentages for nine.

Unemployment Claims after Hire Date

Metric 5: How many newly hired full-time workers at incentivized projects filed for unemployment insurance within two years after they were hired at an incentivized project?

In 7 industry sectors, workers hired at incentivized projects were **less likely to file for unemployment** within 2 years than workers at companies in the corresponding industry sectors statewide.

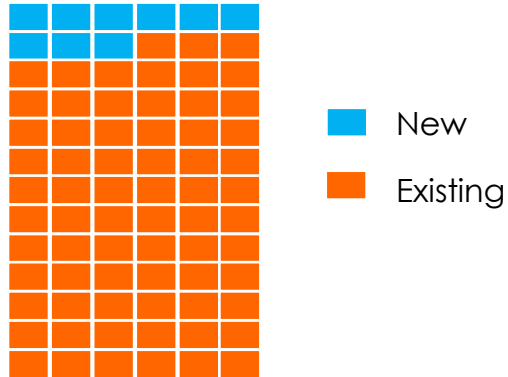


Source: Audit Office analysis of Labor Department data on Federal Identification Numbers for 68 projects.
* We analyzed all 15 industry sectors but to protect taxpayer confidentiality, we can only report the percentages for nine.

New to Nebraska

Metric 6: How many of the incentivized companies were new to Nebraska?

9 of the 78 companies reviewed for this audit were **not previously established in Nebraska** in the 2 years before applying.



Source: Audit Office analysis of Revenue Department data.

Scope Question 2: *Is Nebraska Advantage meeting the goal of revitalizing rural and other distressed areas of the state?*

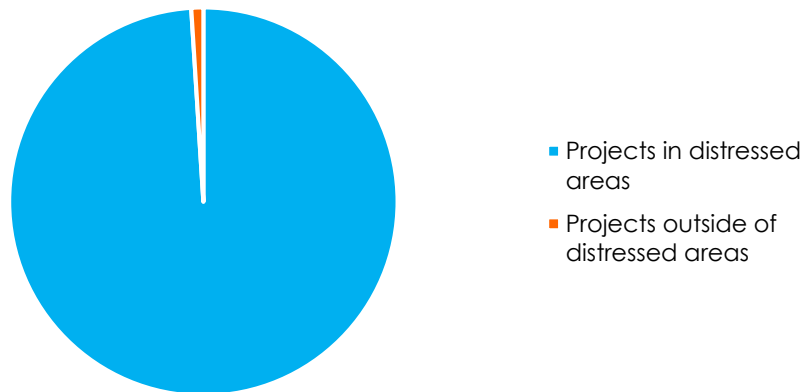
Distressed Areas

Metric 7: How many incentivized projects have locations in distressed areas of the state?

Depending on the definition of distressed areas used for comparison, between one-third and nearly all of the 79 projects in our population had locations in distressed areas.

Under the definition of distressed in other incentive acts, **virtually all projects** were **in distressed areas**.

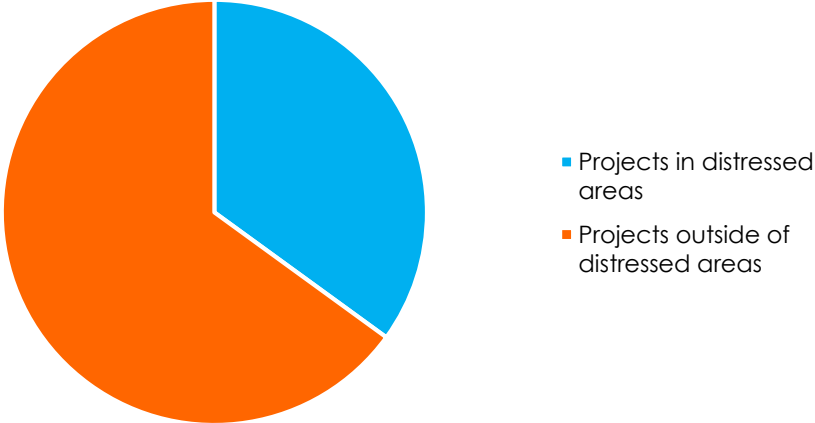
Other Incentive Acts' Definition of Distressed



Source: Audit Office analysis of data from the Revenue Department's tax incentives database.

When distressed is defined as Areas of Substantial Unemployment, **35%** of project locations were **in distressed areas**.

Areas of Substantial Unemployment



Source: Audit Office analysis of data from the Revenue Department's tax incentives database and Labor Department data on Areas of Substantial Unemployment.

Scope Question 3: *Is the Advantage Act meeting the goal of diversifying the state's economy and positioning Nebraska for the future by stimulating entrepreneurial, high tech, and renewable energy firms?*

We were unable to answer this question because none of the key terms—entrepreneurial, high tech, and renewable energy firms—are defined. Additionally, there is no single source of data to answer the question.

Scope Question 4: *What are the economic and fiscal impacts of the Advantage Act?*

Metrics that Require Economic Modeling

Several of the metrics for this question require the use of economic modeling software, including estimating:

- Direct and indirect job creation;
- Total revenue generated;
- Program cost compared to program benefits; and
- Comparison of the program's costs and benefits with the estimates of costs and benefits of other policy options.

We were unable to address these metrics because taxpayer confidentiality laws prevented us from providing the level of data needed to the Legislative Fiscal Office. The Fiscal Office purchased the economic modeling software but does not have the access to confidential taxpayer data that the Audit Office has. The Audit and Fiscal offices attempted to use non-confidential data for the economic modeling but were unsuccessful. They are continuing to explore potential options for resolving this problem.

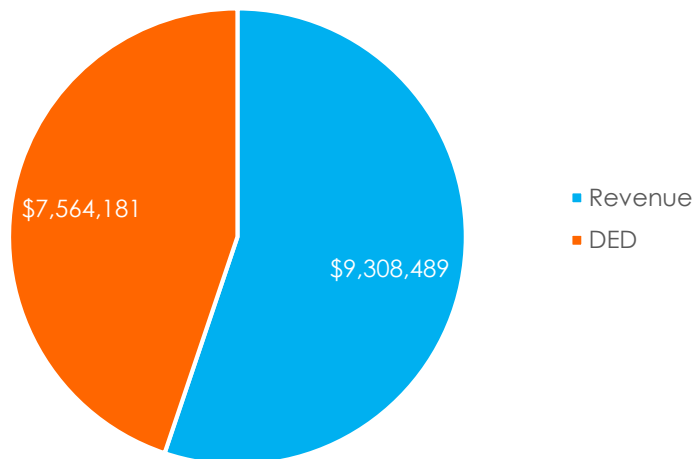
Administrative Cost

Metric 8: How much do state agencies spend to administer and promote the Advantage Act?

The Advantage Act is administered by the Department of Revenue and promoted by the Department of Economic Development. Neither agency tracks their expenditures specific to the Act because administration and promotion of the Act are done in conjunction with administration and promotion of other tax incentive programs.

Using data for 2006 to 2014, the Revenue Department estimates it spent **\$9.3 million administering** tax incentive programs and the Department of Economic Development estimates it spent **\$7.5 million promoting** these programs during the same time period.

Total Administrative and Promotional Costs \$16,872,670



Source: Audit Office compilation of administrative costs reported by Revenue Department and promotional costs reported by Department of Economic Development.

Cost per Full-time Equivalent

Metric 9: What is the range of costs, in state and local benefits, for each new full-time equivalent?

We estimate that the average cost per full-time equivalent (FTE) ranged from \$24,500 to \$320,000 per Advantage Act project. The averages vary due to considerations in our calculations, such as which program benefits are included and the number of new FTEs credited to the Advantage Act. As with any average, it is important to consider the range in the actual costs from which these averages are calculated.

The following graphics provide the results of our evaluation, showing the lowest, average, and highest cost per FTE for each way we calculated the cost. Note that to protect taxpayer confidentiality, we cannot report the specific amounts for the companies with the lowest and highest cost per FTE. Instead, we report the amount that at least three companies at the lowest end of the range were below and the amount that at least three companies at the highest end of the range were above.

Estimate 1: Using a minimum amount of program benefits and crediting the program with creation of 100% of new FTEs.

Estimate 1



Estimate 2: Using all program benefits and crediting the program with creation of 100% of new FTEs.

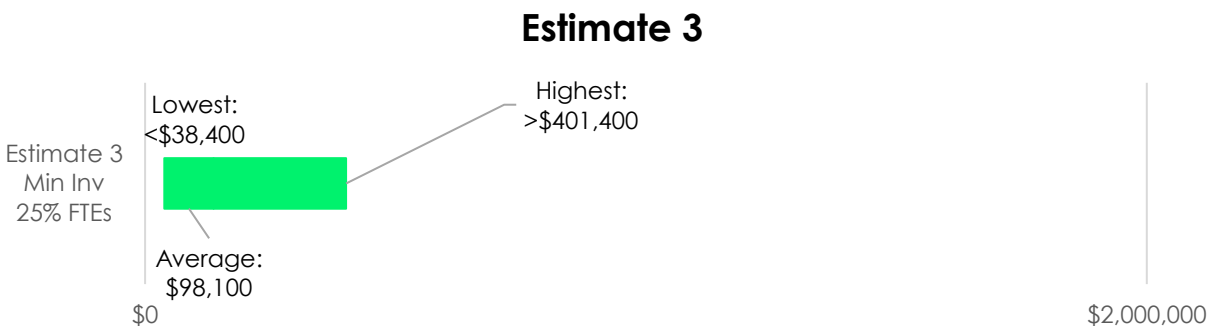
Estimate 2



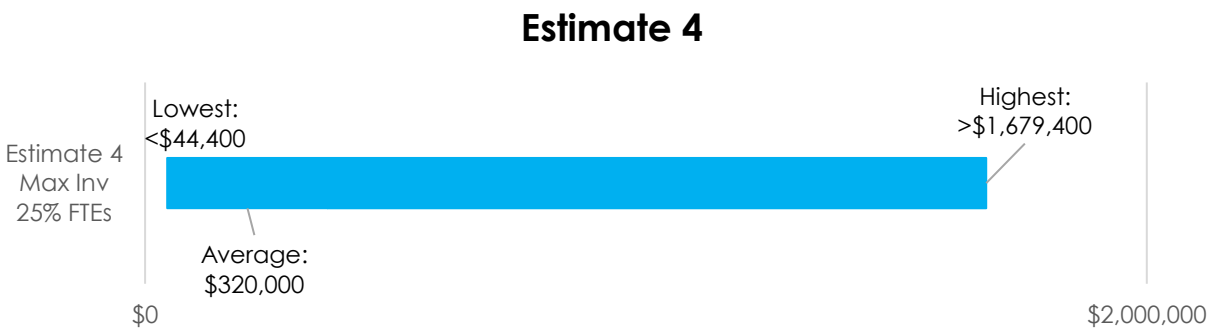
The biggest factor in the higher costs in Estimate 2 is the amount of investment credits earned. For the 31 companies used in the cost per FTE analysis, investment credits made up 65% of the total benefits they had earned.

Estimates 3 and 4 show the change in the averages if the program is only credited with creation of 25% of the new FTEs, which is an estimate based on rates used in other studies.

Estimate 3: Using a minimum amount of program benefits and crediting the program with creation of 25% of new FTEs.



Estimate 4: Using all program benefits and crediting the program with creation of 25% of new FTEs.



Source: Audit Office analysis of Revenue Department data on 31 projects in our population that had earned their maximum amount of compensation and investment tax credits.

The Audit Office is not asserting that 25% is the precise percentage of new FTEs that can be attributed to the Advantage Act. Instead, we use that percentage—which is in the range supported by existing research—as an example, to show how significant this factor is to the cost per FTE calculations.

Scope Question 5: Are adequate protections in place to ensure the fiscal impact of the Advantage Act does not increase substantially beyond the state’s expectations in future years?

Other State Benefits

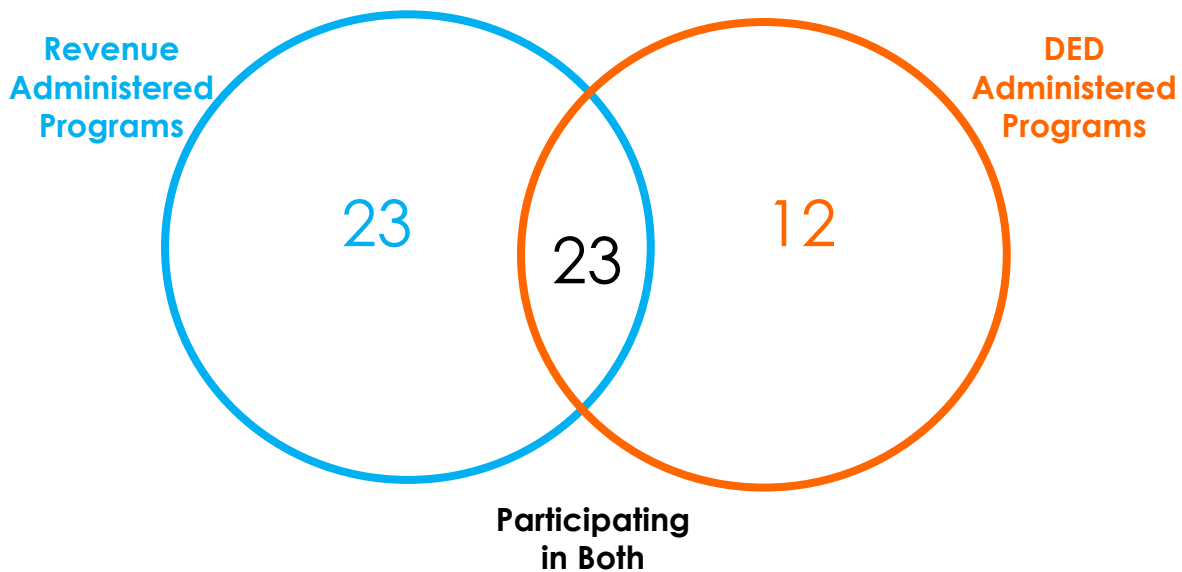
Metric 10: What other state benefits have companies participating in the Advantage Act received?

For this analysis, we reviewed participation by the 78 companies in our population in four economic development programs administered by the Department of Economic Development, as well as four other tax incentive programs administered by the Revenue Department.

Of the 78 companies, 58 (74%) received a benefit from at least one of the other eight programs we reviewed. Of the DED-administered programs, Customized Job Training and InternNE were most used by the Advantage Act companies. Of the Revenue-administered programs, the Employment and Investment Growth Act (LB 775) and the Advantage Act Research and Development program were the most used. Most of the benefits from these other programs were received by the companies before they applied to the Advantage Act.

58 of the 78 companies **received a benefit** from **at least one other tax incentive program** administered by the Department of Economic Development or the Revenue Department.

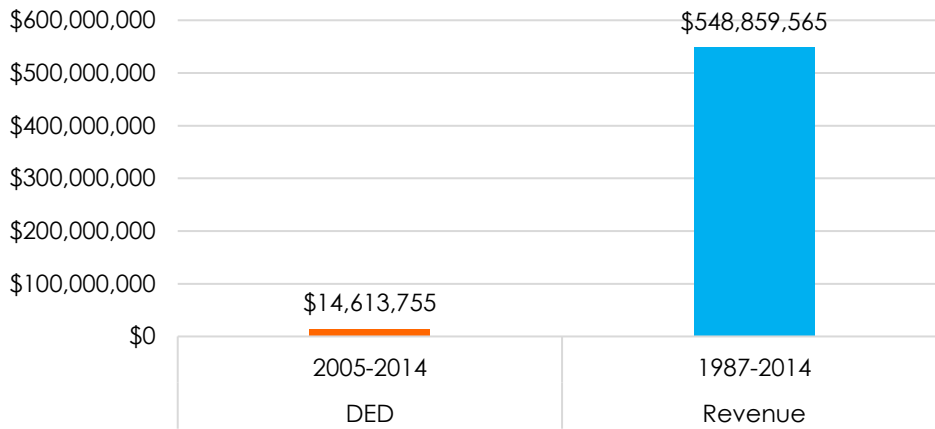
Advantage Act Companies Participating in Other State Benefit Programs



Source: Audit Office compilation of information from the Revenue Department and the Department of Economic Development.

In total, 35 Advantage Act companies received over **\$14.6 million** from other Department of Economic Development tax incentive programs, and 46 Advantage Act companies received over **\$548 million** from other Revenue Department programs.

Other Program Benefits Used by Advantage Act Companies



Source: Audit Office analysis of data provided by the Revenue Department and the Department of Economic Development.

Fiscal Protections

Metric 11: Are adequate protections in place to ensure that in future years the fiscal impact of the Advantage Act does not increase substantially beyond the state’s expectations?

The Advantage Act has some fiscal protections in place, including performance-based incentives and a recapture provision should a company not meet its obligation. However, it does not have the types of protections that would prevent the program from increasing substantially beyond the state’s expectations.

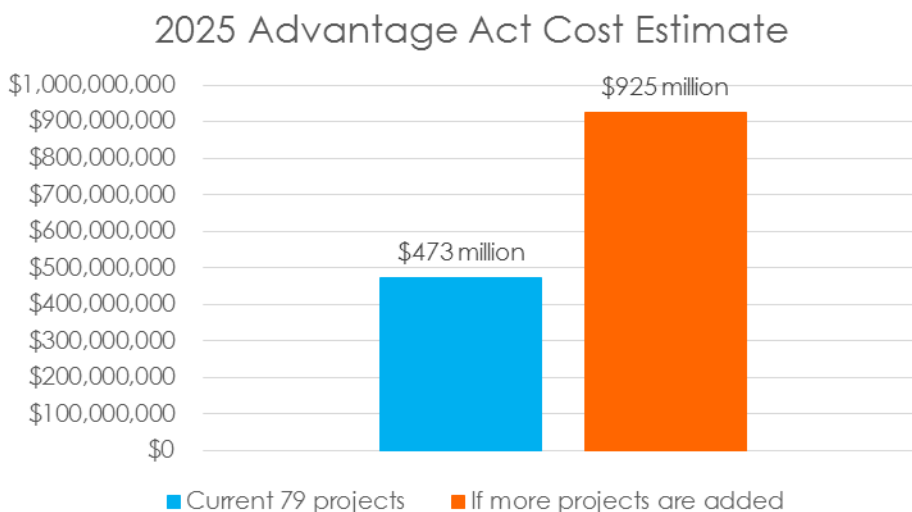
In 2013, program costs (revenue foregone) exceeded the expectations when the program was created (\$24 to \$60 million per year) and economic modeling suggests that it will happen again.

Total Revenue Foregone by the State for All Advantage Act Benefits Used

CY2008	CY2009	CY2010	CY2011	CY2012	CY2013	CY2014
\$1,073,130	\$1,001,191	\$53,191,055	\$28,971,057	\$42,747,129	\$108,739,647	\$59,125,841

Source: Audit Office analysis of data from the Revenue Department’s tax incentives database.

The Revenue Department projects that by 2025, the state and local **potential liability** for the 79 projects in our population will be **\$473 million**. The projection rises to **\$925 million** if the program continues to add projects.



Source: Audit Office analysis of Revenue Department data.

Scope Question 6: *What is the fiscal impact of the Advantage Act on the budgets of local governments?*

Local Impact – Sales Tax

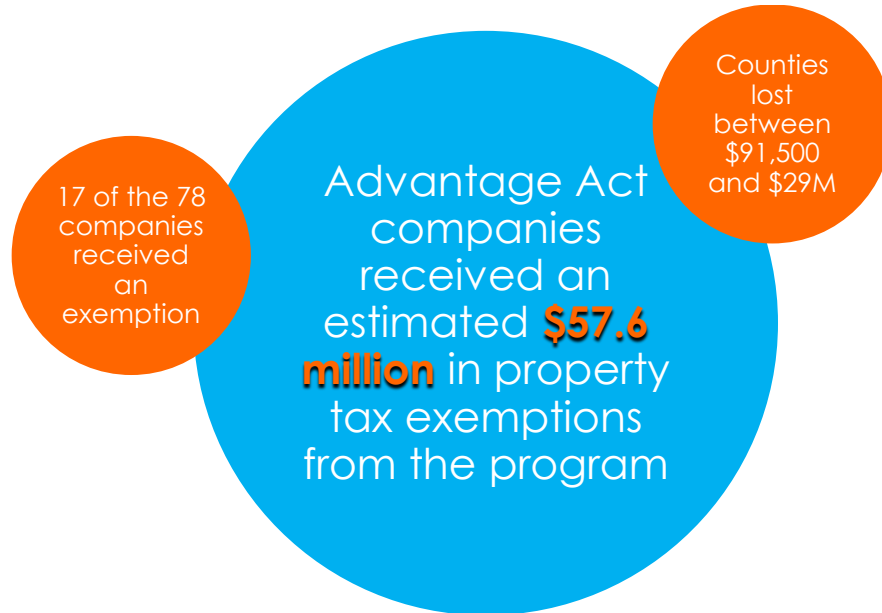
Metric 12: What is the fiscal impact on local governments of the Advantage Act’s sales tax refunds?



Source: Audit Office analysis of data from the Revenue Department's tax incentives database.

Local Impact – Property Tax

Metric 13: What is the fiscal impact on local governments of the Advantage Act's property tax exemption?



Source: Audit Office analysis of data from the Revenue Department's tax incentives database.

Scope Question 7: *What can be done to improve future audits?*

We incorporated these suggestions into the analysis of each metric.

II. Legislative Audit Office Report

Legislative Audit Office Report
**Nebraska Advantage Act Performance on
Selected Metrics**

November 2016

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INTRODUCTION

In 2015, the Legislature passed and the Governor signed LB 538, which required the Legislative Audit Office to conduct a performance audit of each business tax incentive program at least once every three years. This report contains the results of the first performance audit completed under that law.

The subject of this report is the Nebraska Advantage Act, enacted in 2005. The Advantage Act is a complex program consisting of six tiers, each of which provides certain tax benefits to companies that meet specific requirements. In general terms, participating businesses must create jobs and/or make new financial investments in the state. In return, they are eligible to earn sales tax refunds, property tax exemptions, and tax credits that may be used for a variety of purposes.

Measuring Effectiveness

When the Legislature created the Advantage Act, it did not identify specific measures for assessing the program's effectiveness. In 2013, the Audit Office conducted a performance audit of the Advantage Act and other tax incentive programs. In the report, the Office concluded: "the program goals expressed by the Legislature in the statutes and during legislative debate are too general to permit a meaningful evaluation of whether the programs are, in fact, accomplishing what the Legislature hoped they would accomplish."¹

Following release of the 2013 audit, the Legislative Performance Audit Committee introduced LR 444 (2014), an interim study creating a committee of legislators charged with considering whether to recommend ongoing performance audits of tax incentive programs. In its final report, the LR 444 Committee recommended such audits, and also identified metrics for the audits and directed the Audit Office to use these metrics if possible.² This report contains data for 13 metrics identified by the LR 444 Committee.

This report does not include analysis of several metrics that require economic modeling, such as the number of jobs created, total revenue generated, program cost compared to benefits, and comparisons of results with alternate policy choices. The Audit Office was directed to work on these metrics with the Legislative Fiscal Office, which purchased economic modeling software. However, due to statutory protections on taxpayer data, we were unable to provide the Fiscal Office with data at a sufficient level of detail for the modeling to be successful. The two offices are continuing to work with the Revenue Department to resolve the problem. If that is not possible, the Audit Office may ask the Committee to modify the relevant statute to give the Fiscal Office limited access to aggregated taxpayer data for this purpose. The other metrics not included in this report are listed in the Appendix.

¹ Nebraska Legislature, Performance Audit Committee, *Nebraska Department of Revenue: An Examination of Nebraska Tax Incentive Programs*, February 2013.

² Nebraska Legislature, *LR 444 Tax Incentive Evaluation Committee Report*, December 2014.

About the Audit Results

Readers will note that the audit results often start with a disclaimer that certain data could not be reported in order to protect taxpayer confidentiality. In general terms, laws protecting taxpayer confidentiality prevent reporting figures that include fewer than three companies if the results are statewide, and fewer than 10 companies if the results are from a smaller portion of the state.

The metrics used in this audit were selected by policymakers several years after the Act's adoption, meaning the expected performance of the Act in relation to the metrics is largely unknown. Without a standard of expected performance, the Office could not make simple "yes" or "no" judgements about whether the reported performance meets policymakers expectations. Instead, the Office simply reports the results of the analysis for each metric.

Additionally, the Office does not assert that the actions of incentivized companies reported here were caused by their participation in Advantage Act. Because a company's actions may be the result of many factors, it is difficult, if not impossible, to prove the effect of participation in one program.

Section I of the report contains an overview of the Nebraska Advantage Act. Sections II through VII each discuss metrics related to audit scope questions. The Appendix contains additional detail on several metrics.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives. The methodologies used are described briefly in each section.

Acknowledgements

The Legislative Audit Office extends special thanks to Commissioner of Labor John Albin and Tax Commissioner Tony Fulton for setting a tone of cooperation in working with us. We also greatly appreciate the time and efforts of others in both agencies, especially Mary Hugo, Kate Knapp, and Liz Gau at the Nebraska Department of Revenue, and Jennifer Gildersleeve and Scott Hunzeker at the Nebraska Department of Labor. We thank David Dearthmont at the Nebraska Department of Economic Development as well.

We appreciate the time and efforts of Director of the Legislative Fiscal Office Michael Calvert and Fiscal Analyst Malick Diarrassouba for working with us on the metrics that require economic modeling.

Finally, our thanks to Robert Zahradnik, Josh Goodman, Chaaron Pearson, and others at The Pew Charitable Trusts who have provided extensive support to the Audit Office since 2013 when the Legislative Performance Audit Committee first started down the path of tax incentive evaluation.

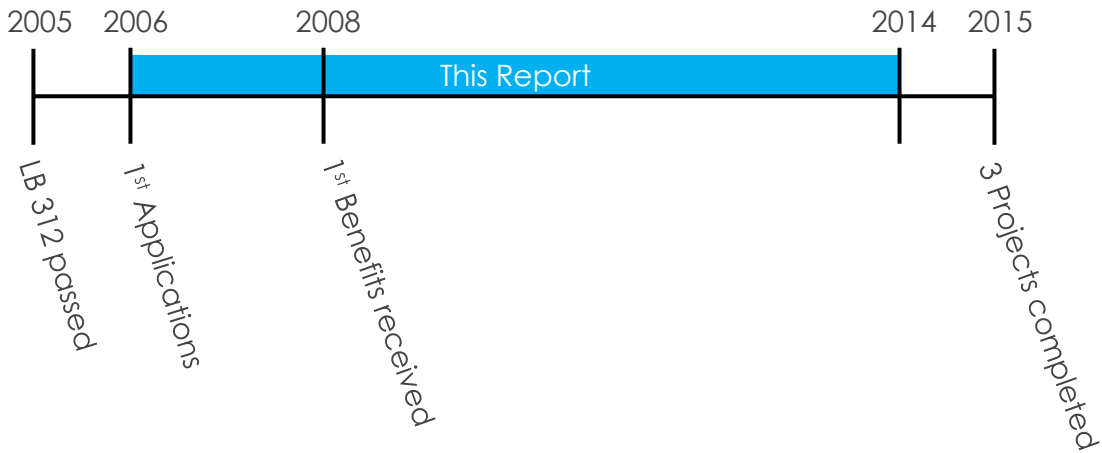
SECTION I: Nebraska Advantage Act

The Advantage Act is complex. It has multiple levels of participation (called tiers), which have different eligibility requirements, benefits, and timeframes for completion. Tiers also vary to some extent in terms of the industries eligible to participate. This section uses a question-and-answer format to provide basic information about the program to help readers understand the metric results presented in this report. For readers interested in additional detail, we recommend the annual tax incentives reports prepared by the Revenue Department and available on their website and a brochure available on the Department of Economic Development's website titled *Economic Development Incentives*.

What are the important dates in the program's history?

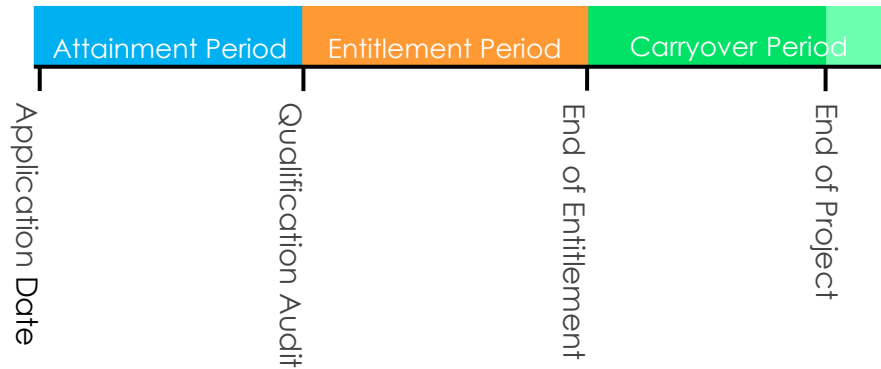
The Advantage Act was passed by the Legislature and signed by the Governor in 2005 (LB 312). The Nebraska Department of Revenue (Revenue) administers the program. Companies first applied for the program in 2006 and first received program benefits in 2008. Advantage Act projects last several years; 2015 was the first year in which any companies successfully completed their projects.

Figure 1.1. Advantage Act Timeline



Once a company has submitted an application to participate in the program, what are the important steps to complete the project successfully?

Figure 1.2. Advantage Act Milestones



An incentivized company must move through three project phases to successfully complete its project. First is the Attainment Period, which lasts from four to seven years. During this period, the company works to meet the requirements of the tier in which it is participating. The Attainment Period begins when Revenue receives the company’s application and ends when the company meets its investment and job creation requirements. Revenue conducts a Qualification Audit to determine whether the company has met the requirements.

The second period is the Entitlement Period, during which the company is first able to use significant program benefits³ and also continues to earn additional benefits. The start of the Entitlement Period is established by Revenue during the Qualification Audit and the length of the period varies depending on the tier in which the company is participating. The company must maintain or exceed the job creation and investment requirements of their tiers during this period.

The third period is the Carryover Period, during which the company may use previously earned benefits but may not earn new ones. This period begins when a company has used up the number of years allowed by law for the tier in which it is participating. In some circumstances, a company may continue to receive benefits after the end of the Carryover Period. For example, a company participating in a tier with a 10-year property tax exemption may be eligible for the exemption in years after the Carryover Period ends (shown as the light green bar on Figure 1.2). Figure 1.3 describes each period in more detail.

³ During the first (Attainment) period, a company may in some instances receive a property tax exemption, as discussed in footnote 9.

Figure 1.3. Important Periods in the Advantage Act Process

Application Date	The Application Date is the date that the Revenue Department received a company's completed application. Several important aspects of a company's agreement refer back to this date.
Agreement Signed	In the agreement, the company commits to meeting the investment and job creation requirements of a given tier (and other requirements, like annual reporting), in return for the opportunity to earn the tax benefits of that tier.
<p style="text-align: center;">Attainment Period</p> <p>This period begins on the Application Date and can last from four or seven years, depending on the tier. During Attainment, the company must meet its investment and job creation requirements. It may also earn tax benefits but, generally, may not use them.</p>	
Qualification Audit	Through the Qualification Audit, the Revenue Department determines whether the company has met the requirements of the tier in which it is participating. In conducting the audit, Revenue analyzes company records and makes an on-site visit.
<p style="text-align: center;">Entitlement Period</p> <p>This period begins once the company has met its tier-specific requirements. The company may then use benefits earned during the Attainment period. Throughout the six to seven years of the Entitlement Period (for most tiers), the company may continue to earn and use benefits.</p>	
<p style="text-align: center;">Carryover Period</p> <p>Depending on the maximum number of years allowed for the agreement and the number of years used through the end of the Entitlement Period, a company may have several years to use any benefits earned previously but not yet used.</p>	
End of Agreement	Each tier contains a maximum number of years a company may participate.

Source: Audit Office compilation of information from the Nebraska Advantage Act and meetings with Revenue Department staff.

What are the time limits on Advantage Act projects?

Time limits apply to each of these periods and to each project as a whole, and can vary by tier. The maximum amount of time for the longest projects is 15 years. Figure 1.4 shows the time limits for each project period and for the projects overall. As noted on page 4, there are some circumstances in which a company may receive a benefit after the end of the Carryover Period.

Figure 1.4. Time Limits in Years for Advantage Act Periods and Maximum Agreement Lengths

Key Step	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5	Tier 5LDC	Tier 6
Attainment	5	7	5	7	7	4	5
Entitlement	6 or 7*	7	6 or 7	7	7	7	10
Carryover	0 to 3*	2 to 8*	0 to 3	2 to 8*	N/A	N/A	1
Maximum Life	10	15	10	15	13	10	15

Source: Audit Office compilation of information from Nebraska Department of Revenue, *Nebraska Tax Incentives 2014 Annual Report to the Nebraska Legislature*.

LDC – large data center

*Time periods are limited by the maximum life of the project.

What are the program requirements for each tier?

Each tier contains specific requirements for new investment, job creation, or both. For example, Tier 1 requires a minimum new investment of \$1 million and a minimum of 10 new jobs, which are defined as full-time equivalents (FTEs). Companies participating in this tier can earn additional benefits if they exceed these minimums. They are also subject to recapture if they drop below the required levels. Figure 1.5 shows the minimum investment and job creation requirements for each tier.

Figure 1.5. FTE Creation and Investment Requirements by Tier, 2014

	Tier 2 and				Tier 5 and				
	Tier 1	Tier 2 DC/WP	Tier 2 LDC	Tier 3	Tier 4	Tier 5 DC/WP/LDC	Tier 5 RE	Tier 6 A B	
Investment (millions)	\$1	\$3	\$201	0	\$12	\$37	\$20	\$11	\$110
FTE Creation	10	30	30	30	100	None, but must retain existing FTEs		75	50

Source: Audit Office compilation of information from Nebraska Department of Revenue, *Nebraska Tax Incentives 2014 Annual Report to the Nebraska Legislature*. Modified slightly by the Audit Office.

DC - data center; LDC - large data center; RE – renewable energy; WP - web portal

What are the program benefits for each tier?

The Advantage Act provides five types of benefits: 1) tax credits earned on investment amounts; 2) tax credits earned on compensation; 3) a direct refund of certain sales tax payments⁴; and 4) an exemption from personal property tax for certain types of property. Each tier provides one or more of these benefits.

Incentivized companies may use tax credits to reduce what they owe on their:

- Sales tax;
- Corporate income tax;
- Shareholder/individual income tax;
- Employee wage withholding;⁵ or
- Real estate tax.⁶

Figure 1.6 on page 8 shows the benefits that may be earned for each tier and the options for use of tax credits.

What is the difference between benefits earned and benefits used?

As of December 31, 2014, the 78 Advantage Act companies we reviewed had earned \$735,987,699 in benefits.⁷ Tax credits earned on investments made up more than half (64%) of the total, followed by compensation credits (16%). Direct sales tax refunds made up 12% of the total; personal property tax exemptions made up the remaining 8%. The dollar values of this breakdown are shown in Figure 1.7, on page 9.

⁴ In this report, the term “sales tax” refers to both the state’s sales tax and its use tax. According to Revenue, the use tax applies when the sales tax has not been paid on a transaction that is subject to sales tax.

⁵ Does not apply to Tier 5, which does not require job creation and therefore does not include compensation credits.

⁶ Available only under the Tier 2 data center sub-tier and Tier 6.

⁷ This was the amount initially earned but the actual amount was somewhat lower due to recapture.

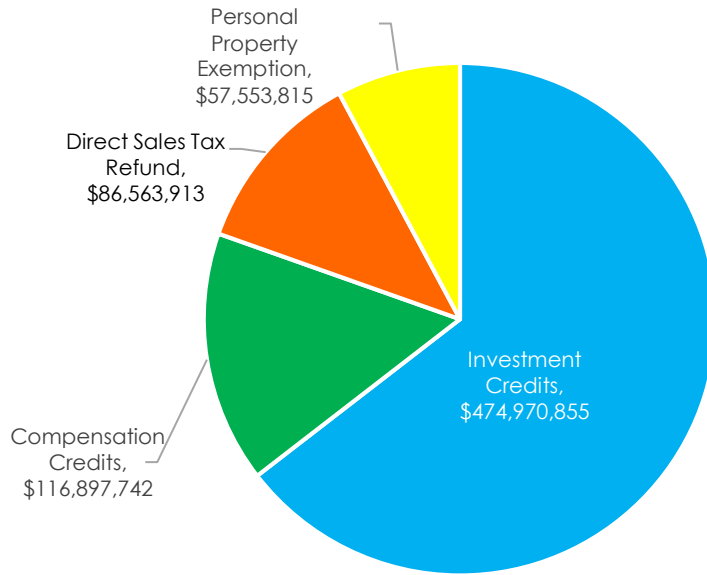
Figure 1.6. Advantage Act Benefits by Tier and Uses for Credits

	Tier 1	Tier 2	Tier 2WP/DC	Tier 2LDC	Tier 3	Tier 4	Tier 5 & 5RE	Tier 5WP/DC	Tier 5LDC	Tier 6 A & B
Tax Benefit										
Direct Sales and Use Refund	50%	100%	100%	100%	—	100%	100%	100%	100%	100%
Investment Credit	3%	10%	10%	10%	—	10%	—	—	—	15%
Compensation Credit	3-6%	3-6%	3-6%	3-6%	3-6%	3-6%	—	—	—	10%
Personal Property Tax Exemption*	—	—	C	A,P	—	A,C,E	—	C	A,C,E	A,P
Use of Credits										
Sales and Use Refund	√	√	√	√	√	√				√
Corporate Income Tax Offset or Refund	√	√	√	√	√	√				√
Shareholder/ Individual Income Tax Offset or Refund	√	√	√	√	√	√				√
Employee Withholding Tax Offset or Refund (Wage credits only)	√	√	√	√	√	√				√
Real Property Tax Reimbursement				√						√

Source: Audit Office compilation of information from Nebraska Department of Revenue, *Nebraska Tax Incentives 2014 Annual Report to the Nebraska Legislature*.

*A = Aircraft; C = Computer Systems; E = Agricultural Processing Equipment and Distribution Facility Equipment; P = All Tangible Personal Property at the Project

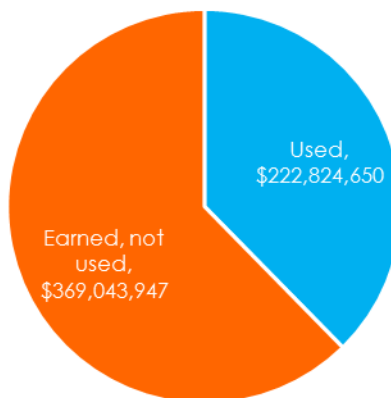
Figure 1.7. Benefits Earned by Type, 2008-2014



Source: Audit Office compilation of data from the Revenue Department's tax incentives database.

Generally speaking, the direct sales and use tax refunds and property tax exemptions are used in close proximity to when a company earned them, while tax credits may be retained and used over a number of years. Of the \$591,868,597 investment and compensation credits *earned* by December 31, 2014, companies had only *used* \$223 million, or 38%. The remaining 62% were available for use in the future. The difference is shown in the figure below.

Figure 1.8. Investment and Wage Credits Earned vs. Used, 2008-2014

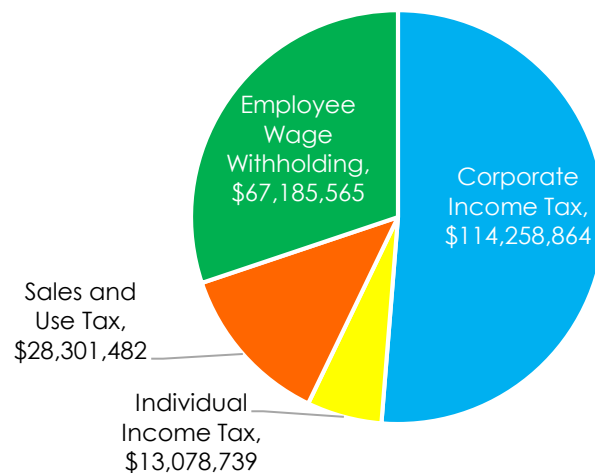


Source: Audit Office compilation of data from the Revenue Department's tax incentives database.

How were credits used?

Between 2008 and 2014, 50% of the tax credits used went to reduce corporate income tax. The next highest use was for employee wage withholding, which made up 30% of the credits used. The full breakdown is shown in the figure below.

Figure 1.9. How Tax Credits Were Used, 2008-2014



Source: Audit Office compilation of data from the Revenue Department's tax incentives database.

What industries may participate in the program?

The Advantage Act targets certain industries and different industries are eligible for different tiers. Most tiers allow participation by companies in multiple types of industries but some are limited to certain types of companies or certain types of projects, like data centers. The Revenue Department identifies the industry sector of each incentivized company using the North American Industry Classification System (NAICS) of numeric codes.⁸ The figure on the following page shows the number of projects reviewed for this report in each sector.

⁸ This system uses numeric codes of up to six digits to identify industries—fewer digits reflect broader categories and more digits reflect narrower categories. To protect taxpayer confidentiality, the Department uses only two and three digit codes. The system was “developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the U.S.” North American Industry Classification System, “Frequently Asked Questions,” <https://www.naics.com/frequently-asked-questions/> (accessed August 18, 2016).

Figure 1.10. Projects Reviewed for this Report by Industry Sector

NAICS Industry Classification		Projects in this Report	Percent of Total
32	Manufacturing—Non-metallic Goods (Chemicals, Pharmaceuticals, and Others)	18	23%
33	Manufacturing—Metal, Machinery, Electronics, and Others	17	22%
52	Finance and Insurance	12	15%
54	Professional, Scientific, and Technical Services	8	10%
31	Manufacturing—Food, Beverage, Textiles, and Animal Products	7	9%
23	Construction		
42	Wholesale Trade		
48	Transportation—Air, Water, Trucking, Rail, Pipelines	6*	8%
49	Warehousing—Storage and Delivery		
51	Information	6	8%
56	Administrative and Support and Waste Management and Remediation Services	5	6%
Total		79	101%**

Source: Audit Office compilation of project NAICS codes from the Revenue Department's tax incentives database. NAICS code descriptions from U.S. Census Bureau.

*Sectors combined to protect taxpayer confidentiality.

**Total is more than 100% due to rounding.

What projects were reviewed for this report and how do they compare to the projects covered in the Revenue Department's *Nebraska Tax Incentives 2014 Annual Report to the Legislature*?

For this report, the Audit Office identified 78 companies that received an Advantage Act benefit between January 1, 2006 and December 31, 2014, the latest date for which verified program data were available when the audit began. One of the companies had two Advantage Act projects, so the report discusses *78 companies*, but *79 projects*.

For 73 of the 79 projects, Revenue had completed qualification audits, certifying that the companies had met the job creation and investment requirements for their tiers. For the other six projects, the companies had received property tax benefits in advance of qualification.⁹

⁹ According to Revenue, under § 77-5725(8), a Tier 2LDC project is not required to be qualified before a company can receive a property tax exemption. Also under § 77-5725(8), a project in any tier eligible for a property tax exemption for aircraft is not required to be qualified to receive an exemption for aircraft. Additionally, Revenue occasionally allows a company in a tier that does require qualification, to use the property tax exemption prior to completion of the qualification audit. In those cases, since there is no provision to amend the property tax filing, the company would otherwise lose the exemption benefit because the deadline to file would have passed before the audit is completed. According to Revenue, this is only allowed when it is clear the project would qualify, but the precise numbers of FTEs and investment have not yet been confirmed.

During the course of the audit, additional program information was verified and released in Revenue’s statutorily required annual report on tax incentive programs. The following tables show the Advantage Act activity covered in this report compared to the activity at the end of 2015. Figure 1.11 shows the total applications received and their status. Figure 1.12 shows the tier in which each of the qualified companies is participating.

Figure 1.11. Advantage Act Project Overview

Application Status	As of 12/31/14 (this report)	As of 12/31/15
Completed Applications	501	572
Signed Agreements	340	400
Qualified Projects	73	94
Projects Subject to Recapture	18	23
Projects Completed	0	3

Source: Audit Office compilation of Revenue data.

Figure 1.12. Advantage Act Qualified Projects by Tier, Through 2014 and 2015

	As of 12/31/14 (this report)	As of 12/31/15	Net Difference
Tier 1	13	21	+8
Tier 2	41	49	+8
Tier 2 LDC	*	*	NA
Tier 2 WP/DC	*	3	NA
Tier 3	6	6	0
Tier 4	11	12	+1
Tier 5, Tier 5 WP/DC, Tier 5 LDC, Tier 5 RE	*	3	NA
Tier 6	*	*	NA
Subtotal	73	94	+21
Property tax exemption only	6	9	+3
Total	79	103	+24

Source: Audit Office compilation of data from the Revenue Department's tax incentives database.

*Each of these tiers had from 0 to 2 companies so the numbers are not reported to protect taxpayer confidentiality.

DC - data center; LDC - large data center; RE - renewable energy; WP - web portal

Some projects under an agreement for one tier can receive benefits of a lower tier, if they meet the lower tier’s investment and job creation requirements. For example, 25 of the projects in our sample had agreements to participate in Tier 4 (with requirements of \$12 million in investment and creation of 100 jobs). However, at the time of the audit, only 11 of the 25 had met the Tier 4 requirements. The remaining 14 had met the requirements for Tier 2 (\$3 million investment and 30 jobs). In Figure 1.12 and throughout this report, we report projects in the tier that they had qualified for when they were reviewed for the audit because that is the qualification that determined the benefits they were eligible for at the time of the review.

SECTION II: Advantage Act's Effect on the State Economy

Scope Question Answered: Is the Advantage Act meeting the goal of strengthening the state's economy overall by attracting new business to the state, expanding existing businesses, increasing employment, creating high-quality jobs, and increasing business investment?

Metrics Discussed in this Section

Metric 1: Did the number of full-time workers at incentivized projects increase between 2008 and 2014?

Metric 2: How did the increase in full-time workers at incentivized projects compare to the increase in the projects' statewide industry sectors?

Metric 3: Were the average wages of full-time workers at incentivized projects higher or lower than the average wages for the statewide industry sectors?

Metric 4: How many newly hired full-time workers at incentivized projects filed for unemployment insurance in the year before they were hired at an incentivized project?

Metric 5: How many newly hired full-time workers at incentivized projects filed for unemployment insurance within two years after they were hired at an incentivized project?

Metric 6: How many of the incentivized companies were new to Nebraska?

Before reporting the results for each metric, we discuss a few points relevant to Metrics 1 through 5, which address job creation and average wages at incentivized companies, as well as unemployment insurance claim filings.

Revenue Department Data and Labor Department Data

For these job-related metrics, we used data collected by the Labor Department (Labor). Revenue does not have the type of data needed to answer these metrics, in large part because the metrics were identified after the program had been created, so Revenue was not required to maintain related data.

For example, Revenue does not have data on the actual positions created by incentivized companies. Revenue maintains job-related data based on the Advantage Act's job creation requirements—a job is defined as a full-time equivalent (FTE), which equals 2,080 work hours in one year. An incentivized company must show an increase in work hours sufficient to meet its job creation requirement, but the hours do not all have to come from the creation of new positions.

In the absence of available data about positions, we used employee data maintained by Labor. While Labor does not track positions either, it tracks individual employees by social security numbers. Using this information, along with wage data, we were able to estimate the number of positions that have been created.

Full-time Worker Definition

A key question of the LR 444 Committee that initially developed the metrics for this evaluation was: how many of the new FTEs created by incentivized companies actually represented new full-time positions?

While the Labor Department data does not identify full-time positions, we worked with Labor staff to define a “full-time worker” that we believe is a fair estimate of full-time positions.¹⁰ We define a full-time worker as someone who worked for the incentivized company at least 35-hours a week and earned at least the minimum wage for more than one quarter in a calendar year. This is a broad definition since using 35-hours per week will include more workers than the more common 40-hour per week standard. Additionally, using the minimum wage will include more workers than those who qualify to earn Advantage Act compensation credits. We deliberately used a broad definition in order to estimate the maximum number of full-time workers.

The full-time worker definition is described in more detail in the Metric 1 methodology section on page 18.

¹⁰ We use the term full-time workers to distinguish these workers from the full-time equivalents defined in the Advantage Act.

Incentivized Companies Compared to Incentivized Projects

Originally, these job-related metrics asked about incentivized “companies” but we focused instead on incentive “projects,” not the whole companies. The distinction is most relevant to a large company for which the Advantage Act project represents only a small portion of its economic activity. In such cases, presenting results based on the entire company would overestimate any impact that might be due to the Advantage Act.

Matching the Revenue and Labor departments’ data, using federal identification numbers (FIDs), to the employees directly affiliated with the Advantage Act project proved to be a challenge. All of the incentivized companies had at least one FID, but some had more than 10. For some of the companies with multiple FIDs, the company reported the employees affiliated with the Advantage Act project to Labor using different FIDs than the ones used in its reporting to Revenue. Additionally, for some companies, the individual FID that covered the Advantage Act project employees also including non-project employees.

After working closely with both departments, we are confident that the FIDs we used do include all of the project employees. However, we were unable to remove the non-project employees, so they are included as well. Unfortunately, we are unable to accurately estimate how large that group may be.

Revenue staff suggested to us that it could also be valuable to compare the activity of the Advantage Act project with the company as a whole. It is possible, for example, that such a comparison could show that the economic activity of the project increased while activity in another part of the company decreased, which would be useful information for policymakers. We agree with this perspective and, if data-matching can be improved, would suggest incorporating this into the next Advantage Act performance audit.

Metric 1: Job Creation

Did the number of full-time workers at incentivized projects increase between 2008 and 2014?

Results

We estimate that the 68 Advantage Act projects we were able to analyze for this metric hired 2,968 additional full-time workers between 2008 and 2014. However, due to data limitations, this number may underestimate or overestimate the actual number.

As explained on page 14, the Revenue Department does not track full-time workers, but we were able to use Labor Department data to estimate the increase in full-time workers. Based on that data, we estimate that 68 of the Advantage Act projects in our analysis employed 2,968 more full-time workers at the end of 2014 than in 2008, as shown in Figure 2.1.

Figure 2.1. Increase in Full-time Workers at Advantage Act Projects

2008	2014	Total
27,232	30,200	+2,968 (+11%)

Source: Audit Office analysis of Labor Department data.

This estimate provides a perspective on job creation that is outside of the definitions in the Advantage Act. It shows that the company with an Advantage Act project did, in fact, increase the number of full-time workers during the period we reviewed. The 2,968 figure is the net difference between two points in time—for some of the 68 companies the number of full-time workers increased during this period while for others the number decreased.

Factors that may cause this estimate to be different from the actual increase in full-time workers are described below. Additionally, this estimate is not comparable to data on the Advantage Act reported by Revenue. Both the Audit Office and the Revenue Department strongly urge readers not to compare this estimate to program data on full-time equivalents (FTEs) and benefits earned by incentivized companies reported by Revenue.

Underestimating and Overestimating Factors

We could not include job growth data for 10 of the Advantage Act projects in our population, so their increase or decrease in full-time workers is not counted. Additionally, as noted previously, we were unable to identify and isolate only the employees at incentivized projects. As a result, our estimate includes some employees who worked at the *company* participating in the Advantage Act but who were not part of the company's Advantage Act *project*.

Difference from Advantage Act Full-time Equivalents

First, the job growth captured by our estimate is not the same as the FTE growth the Advantage Act requires Revenue to measure. Our estimate uses a broader definition of full-time than does the Advantage Act, so it includes more workers.

Second, our estimate reflects a simple comparison of the full-time workers between two points in time, and that is not how FTE growth is measured under the Advantage Act. Specifically, Labor data starts with 2008 so, for projects with application dates prior to 2008, our estimate does not include increases or decreases in full-time workers from the application date to 2008. Additionally, for projects with application dates after 2008, our estimate includes any increases or decreases in full-time workers that took place before a company applied to the Advantage Act.

Finally, the analysis does not reflect the projects' total economic activity counted under the Advantage Act. Specifically, it does not include:

- Part-time employees, whose hours can count towards FTE counts under the Act; or
- Full-time workers hired for a portion of the time between 2008 and 2014 but not employed at the end of 2014.

Change in Full-time Workers After Qualification

Policymakers may be interested in whether companies maintain job growth after their participation in the Advantage Act ends. We could not answer that question because no projects were completed during our review period. However, we did review the full-time worker growth between 2008 and 2014 to determine whether it went up or down after the companies met their FTE creation requirements.

The amount of growth after companies met their FTE creation requirements was almost the same as the amount prior to that point. Fifty-one percent of the increase in full-time workers occurred between 2008 and the year in which each company met the requirements of its tier (called the First Qualify date). Forty-nine percent occurred after the companies had qualified, as shown in Figure 2.2.

Figure 2.2. Increase in Full-time Workers, Before and After the Projects' First Qualify Dates

2008 to First Qualify Date	First Qualify Date to End of 2014	2008 to 2014
1,505 (51%)	1,463 (49%)	2,968 (100%)

Source: Audit Office analysis of Labor Department data.

Change in Full-time Workers by Tier

Policymakers may also be interested in the increase or decrease in full-time workers for our 68 projects by the Advantage Act tier in which they were participating. Figure 2.3 shows that the difference by tier ranged from -93 for Tier 2 to +2,010 for Tiers 4 and 5 combined. These differences represent the net increase or decrease so the negative figure for Tier 2 does not indicate that all Tier 2 projects had a decrease in full-time workers. Instead, it shows that the total number of full-time workers lost by some projects was higher than the total number of workers increased at the other projects.

Figure 2.3. Change in Number of Full-time Workers by Tier

Tier	Required FTE Creation	Number of Companies	Employment Level		Increase/Decrease	
			2008	2014	Number	Percent
1	10	13	1,918	2,499	+581	+30%
2	30	36	11,783	11,690	-93	-1%
3	30	6	464	934	+470	+101%
4 & 5*	100 & maintenance	13	13,067	15,077	+2,010	+15%
Total		68	27,232	30,200	+2,968	+11%

Source: Audit Office analysis of Labor Department data.

*To protect taxpayer confidentiality, we combined Tiers 4 and 5.

Methodology/Discussion

Due to data limitations, we answered a slightly different question than the one asked by the LR 444 committee. The committee wanted to know the number of full-time jobs created by incentivized companies. As discussed at the beginning of this section, we were unable to answer this question because there is no single source for determining the number of jobs (positions) created by Advantage Act companies. Instead, we used Labor data to determine the increase in full-time *workers*.

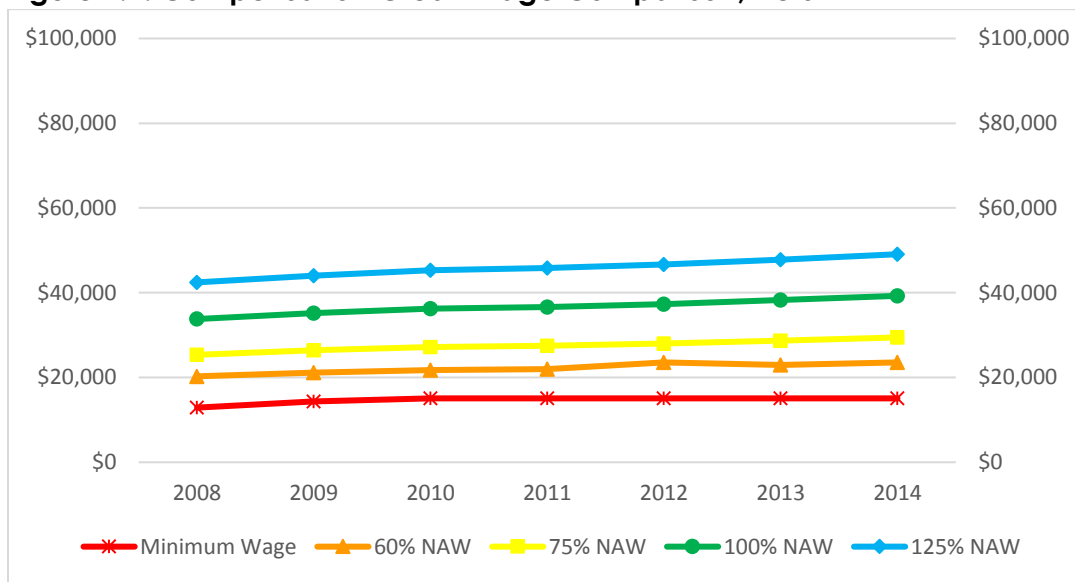
The Advantage Act does not require incentivized companies to report any information to Labor and no companies, incentivized or otherwise, are required to report information on employee *positions* to Labor. In addition, they are not required to report hours worked by their employees to Labor; consequently, we could not identify full-time workers based on the hours they had worked in a given time period. Instead, we created a definition of full-time that is based on employee wages, which Labor maintains by calendar quarter.

We defined a full-time worker as one who:

- Earned wages equal to at least the minimum wage (adjusted for each year reviewed), for at least 35 hours a week; and
- Who worked at the company for one full calendar quarter and at least one day in the immediately preceding quarter.

We chose 35 hours per week, a standard used by the federal Bureau of Labor Statistics, and the minimum wage in order to show the largest estimate of new full-time workers. The minimum wage is a lower threshold than the wage threshold jobs that earn Advantage Act threshold benefits (60% to 125% of the Nebraska average wage). The annual differences between the minimum wage and the salaries eligible for Advantage Act benefits in most tiers are shown in Figure 2.4.

Figure 2.4. Compensation Credit Wage Comparison, Tiers 1-4



Source: Audit Office analysis using minimum wage in Neb. Rev. Stat. § 48-1203; other figures, Revenue Department rulings.
NAW – Nebraska Average Wage

The Labor Department receives data from companies on individual employees but not on the positions they hold. Because of that, it is impossible to determine exactly how many of the additional 2,968 full-time workers represent *new positions* created by the companies. However, after discussing the possible ways that the number of workers could exaggerate the number of jobs, as well as additional review of the data, we believe it is fair to assume that most of the 2,968 new full-time workers were in new positions.¹¹

¹¹ The most likely reasons the number would be inflated are that 1) some of the increase in workers was caused by turnover in existing jobs and 2) part-time workers had their hours increased to full-time. Based on our review of the data and discussions with Labor Department staff, we concluded neither was a major factor.

We were able to gain enough confidence in the matching to use 68 projects in our analysis, For each company, we provided Labor Department wage data by FID to the Revenue Department, which checked it against similar data the company filed with it. For this analysis, we excluded four companies for which the difference between the Labor and Revenue data was greater than 15%. The other six companies were excluded because they only received property tax benefits and therefore do not report wage data to Revenue.

Figure 2.5 shows the Advantage Act tiers that contain FTE-creation requirements.

Figure 2.5. Tiers with FTE-creation Requirements

Tier	FTE-creation Required?	Minimum Required
1	Yes	10
2 (all*)	Yes	30
3	Yes	30
4	Yes	100
5 (all*)	No	Must maintain FTEs in place at application.
6	Yes	75 with \$11 million investment or 50 with \$111 million investment

Source: Audit Office compilation of data from Nebraska Department of Revenue, *Nebraska Tax Incentives 2014 Annual Report to the Nebraska Legislature*.

* Includes sub-tiers relating to data centers, large data centers, renewable energy, and web portals.

Metric 2: Job Creation Comparison

How did the increase in full-time workers at incentivized projects compare to the increase in the projects' statewide industry sectors?

Results

In 10 of the 15 industry sectors represented, the incentivized projects had a higher growth rate in full-time workers than the corresponding statewide industry sectors.

For this metric, we started with the data from Metric 1: for the 68 companies we could analyze, there was an increase of 2,968 full-time workers between 2008 and 2014 and calculated the increase or decrease for the incentivized companies by industry sector. We compared that data to comparable data from Labor on the industry sectors statewide in Figure 2.6 on the following page.

For some of the sectors in which the differences between the incentivized companies and the statewide sectors was only one percent, Revenue disagreed with our conclusion that the incentivized companies did, in fact, have a higher growth rate. We agree that the difference in those sectors is small.

Methodology/Discussion

The Labor Department was able to identify by social security number individual employees who met this definition. Additional information in methodology section in the Metric 1 analysis also applies here, including the definition of full-time worker.

For this metric and the remainder of metrics in this section, the industry sector numbers for some incentivized projects are different from the sector numbers used in other places in this report. Labor and Revenue do not always use the same industry designation and when reporting data from each agency, we retained their industry code designations.

See the Appendix for the full breakdown of data by industry for the incentivized companies and for the industry statewide.

Figure 2.6. Growth Rate of Full-time Workers, Advantage Act Projects Compared to Industry Sectors, 2008-2014

Industry Sector	Net Increase or Decrease in Workers				Advantage Act Projects' Performance Better than Industry Sector?
	Advantage Act Companies		Statewide Industry Sector		
	Number	Percent	Number	Percent	
71 Arts, Entertainment, and Recreation	*	174%	16	<1%	Yes
56 Administrative and Support/Waste Management and Remediation Services	1,348	156%	3,977	13%	Yes
49 Warehousing—Storage and Delivery	*	122%	936	23%	Yes
51 Information	*	78%	-4,058	-20%	Yes
44 Retail Trade	426	40%	2,401	6%	Yes
45 Retail Trade	*	24%	-2,310	-9%	Yes
31 Manufacturing—Food, Beverage, Textiles, and Animal Products	310	23%	2,501	8%	Yes
54 Professional, Science, Technical Services	292	23%	2,591	8%	Yes
33 Manufacturing—Metal, Machinery, Electronics, and Others	455	8%	-4,197	-10%	Yes
32 Manufacturing—Non-metallic Goods (Chemicals, Pharmaceuticals, and Others)	281	7%	153	1%	Yes
55 Management of Companies and Enterprises	71	4%	4,620	76%	No
42 Wholesale Trade	-1	<1%	734	2%	No
52 Finance and Insurance	-638	-6%	-948	-2%	No
81 Other Services (except Public Administration)	*	-17%	160	1%	No
48 Transportation—Air, Water, Trucking, Rail, Pipelines	*	-50%	-268	-1%	No
Total		11%		4%**	

Source: Audit Office analysis of Labor Department data.

* These figures were not reported in order to protect taxpayer confidentiality.

** Whole Private Sector NE economy, not just for industries shown.

Metric 3: Average Wages

Were the average wages of full-time workers at incentivized projects higher or lower than the average wages for the statewide industry sectors?

Results

In 12 of the 15 industry sectors, incentivized projects had higher yearly average wages than the statewide industry sectors. In those 12 sectors the incentivized projects also had a higher proportion of full-time workers earning above industry average wages than the statewide industry sectors.

For this metric, we were able to analyze Labor employee data for 68 of the 78 companies in our population. The 68 companies fell into 15 industry sectors. In 12 of those sectors, the incentivized projects had *higher* yearly average wages for program years 2006 to 2014 than the yearly wages for the sectors statewide. The largest difference was in the wholesale trade sector, in which the Advantage Act projects average annual wage was \$28,584 higher than for the statewide sector.¹² The full analysis is shown in Figure 2.7.

Figure 2.7. Difference in Yearly Average Wages between Incentivized Projects and the Statewide Sector

Industry Sector	Advantage Act Projects Difference From Sector*
42 Wholesale Trade	+\$28,584
48 Transportation—Air, Water, Trucking, Rail, Pipelines	+\$23,019
71 Arts, Entertainment, and Recreation	+\$21,889
45 Retail Trade	+\$20,827
54 Professional, Scientific, and Technical Services	+\$17,056
56 Administrative and Support/Waste Management and Remediation Services	+\$14,402
51 Information	+\$13,977
31 Manufacturing—Food, Beverage, Textiles, and Animal Products	+\$8,189
32 Manufacturing—Non-metallic Goods (Chemicals, Pharmaceuticals, and Others)	+\$5,411
52 Finance and Insurance	+\$3,034
33 Manufacturing—Metal, Machinery, Electronics, and Others	+\$1,648
81 Other Services (except Public Administration)	+\$1,596
49 Warehousing—Storage and Delivery	-\$785
44 Retail Trade	-\$5,997
55 Management of Companies and Enterprises	-\$17,983

Source: Audit Office analysis of Labor Department data.

*Calculated by subtracting the statewide average from average for the 68 companies used in this analysis.

¹² In order to protect taxpayer confidentiality, we could only report the amount of the differences between the incentivized companies and industry, not the actual wages.

We were also able to identify the percentage of full-time workers who earned above the industry average wage for the 68 projects and compared them to the percentage making above the average wage in statewide industry sectors. In 12 of the 15 sectors, the incentivized projects had a higher proportion of full-time workers who were earning above the industry average wage than statewide sectors, as shown in Figure 2.8.

Figure 2.8. Proportion of Full-time Workers Earning above the Industry Average Wage

Industry Sector	Incentivized Projects	Statewide	Incentivized Projects Difference from Statewide Sector
45 Retail Trade	*	*	Yes
42 Wholesale Trade	60%	29%	Yes
56 Administrative and Support/Waste Management and Remediation Services	55%	31%	Yes
48 Transportation—Air, Water, Trucking, Rail, Pipelines	*	*	Yes
54 Professional, Scientific, and Technical Services	50%	34%	Yes
71 Arts, Entertainment, and Recreation	*	*	Yes
32 Manufacturing—Non-metallic Goods (Chemicals, Pharmaceuticals, and Others)	42%	33%	Yes
31 Manufacturing—Food, Beverage, Textiles, and Animal Products	39%	31%	Yes
33 Manufacturing—Metal, Machinery, Electronics, and Others	39%	33%	Yes
51 Information	*	*	Yes
81 Other Services (except Public Administration)	*	*	Yes
52 Finance and Insurance	32%	30%	Yes
44 Retail Trade	23%	31%	No
55 Management of Companies and Enterprises	12%	20%	No
49 Warehousing—Storage and Delivery	*	*	No

Source: Audit Office analysis of Labor Department data.

Revenue comment: “The Department of Revenue cautions against drawing any causal relationship between a company's participation in the Nebraska Advantage Act and wage level. This metric measures only those companies that have successfully met qualification levels. To qualify under the Act, a company must increase the number of full-time equivalent employees at the project and pay them at least 60% of the Nebraska average

weekly wage. It is likely that companies who paid workers higher wages before applying to participate in the Act were more likely to succeed in reaching qualification levels.”

Methodology/Discussion

We used the definition of full-time worker described in the Metric 1 methodology section.

The Audit Office received quarterly wage and employment data from Labor for all employees at an Advantage Act project, along with the statewide sectors, from 2008-2014.

To obtain a yearly average wage, we:

- 1) Summed the quarterly wages by year (e.g. 2009 quarters 1-4);
- 2) Summed the quarterly employment numbers by year;
- 3) Divided the sum of the wages by the sum of employment; and
- 4) Averaged all years' wages, by sector, obtained steps via 1-3 above.

We originally intended to also compare the incentivized companies' average wages to county averages; however, we did not pursue that analysis after we identified the challenges in identifying specific employee locations for some companies.

Metric 4: Unemployment Insurance Claims Prior to Hiring

How many newly hired full-time workers at incentivized projects filed for unemployment insurance in the year before they were hired at the incentivized project?

Results

In seven industry sectors, incentivized projects hired more employees who had previously filed for unemployment than did the industry statewide.

Hiring people who previously filed for unemployment is one indication that jobs at incentivized companies are bringing new people into the workforce, not simply hiring people who were already employed.

In seven sectors, incentivized companies hired more full-time workers who had previously filed unemployment claims in the previous year than did the employers in the industry as a whole. As can be seen in Figure 2.9 on the following page, among the reportable data, the biggest difference was in industry sector 33 (Manufacturing).

Figure 2.9. Workers Hired within One Year of Filing for Unemployment

Industry Sector	Incentivized Projects	Industries Statewide	Incentivized Companies Higher than Statewide Sectors
33 Manufacturing—Metal, Machinery, Electronics, and Others	24%	14%	Yes
45 Retail Trade	*	11%	Yes
71 Arts, Entertainment, and Recreation	*	10%	Yes
81 Other Services (except Public Administration)	*	9%	Yes
52 Finance and Insurance	11%	8%	Yes
54 Professional, Science, Technical Services	9%	8%	Yes
55 Management of Companies and Enterprises	7%	5%	Yes
31 Manufacturing—Food, Beverage, Textiles, and Animal Products	10%	10%	No
44 Retail Trade	11%	11%	No
42 Wholesale Trade	8%	9%	No
32 Manufacturing—Non-metallic Goods (Chemicals, Pharmaceuticals, and Others)	13%	15%	No
49 Warehousing—Storage and Delivery	*	14%	No
51 Information	*	8%	No
48 Transportation—Air, Water, Trucking, Rail, Pipelines	*	7%	No
56 Administrative and Support/Waste Management and Remediation Services	13%	20%	No
Total	13%	11%	Yes

Source: Audit Office analysis of Labor Department data.

*These figures were not reported in order to protect taxpayer confidentiality.

Methodology/Discussion

We used the definition of full-time worker described in the Metric 1 methodology section.

The Labor Department was able to identify employees who met our definition of full-time and were new to incentivized companies during the review period for this audit. Labor also identified new full-time workers for industry sectors statewide. For both groups, Labor then identified which of the workers had filed for unemployment one year previous to being hired.

Metric 5: Unemployment Insurance Claims Filed after Hiring

How many newly hired full-time workers at incentivized projects filed for unemployment insurance within two years after they were hired at the incentivized project?

Results

In seven industry sectors, employees hired at incentivized projects were less likely to file for unemployment within 2 years than employees at companies in the industry statewide.

A person who files for unemployment within two years after being hired by an incentivized company is one indication that jobs at incentivized companies are not stable. However, because many factors can influence job stability, this indicator should be viewed with some caution.

In seven sectors, newly hired full-time workers at incentivized companies were less likely to file for unemployment insurance benefits than other employees in their industry sectors. As can be seen in Figure 2.10 on the following page, among the reportable data, the biggest difference was in industry sector 56 (Administrative and Support/Waste Management and Remediation Services).

Figure 2.10. Workers Filing for Unemployment within Two Years after Being Hired

Industry Sector	Incentivized Projects	Industry Sector Statewide	Incentivized Projects Lower than Industry Sector?
56 Administrative and Support/Waste Management and Remediation Services	15%	26%	Yes
51 Information	*	13%	Yes
42 Wholesale Trade	9%	13%	Yes
71 Arts, Entertainment, and Recreation	*	16%	Yes
44 Retail Trade	13%	16%	Yes
31 Manufacturing—Food, Beverage, Textiles, and Animal Products	15%	18%	Yes
32 Manufacturing—Non-metallic Goods (Chemicals, Pharmaceuticals, and Others)	20%	22%	Yes
54 Professional, Science, Technical Services	12%	12%	-
49 Warehousing—Storage and Delivery	*	19%	No
45 Retail Trade	*	16%	No
55 Management of Companies and Enterprises	10%	7%	No
52 Finance and Insurance	14%	11%	No
81 Other Services (except Public Administration)	*	14%	No
33 Manufacturing—Metal, Machinery, Electronics, and Others	39%	25%	No
48 Transportation—Air, Water, Trucking, Rail, Pipelines	*	17%	No
Total	19%	17%	No

Source: Audit Office analysis of Labor Department data.

*These figures were not reported in order to protect taxpayer confidentiality.

Methodology/Discussion

We used the definition of full-time worker described in the Metric 1 methodology section.

The Labor Department was able to identify employees who met our definition of full-time and who were new to incentivized companies during the review period for this audit. Labor also identified new full-time workers for industry sectors statewide. For both groups, Labor then identified which of the workers had filed for unemployment within two years after being hired.

Metric 6: New to Nebraska

How many of the incentivized companies were new to Nebraska?

Results

Nine of the 78 companies participating in the program were not previously established in Nebraska in the two years before applying.

While the Advantage Act has a goal of attracting new companies to the state, it does not define what is meant by “new” or indicate the number of new companies policymakers expected it to attract. As it also has a goal of expanding companies existing in the state, the 69 companies that were not new to Nebraska (using the Audit Office’s definition of new), met that other goal. Additionally, the small number of new companies is consistent with site selection research, which suggests that tax incentive programs are not among the most important factors influencing a company’s location decisions.¹³

Methodology/Discussion

The Audit Office considered a company to be new if in the two years before it applied to the Advantage Act it had paid no Nebraska income tax or wages for business activity in Nebraska. This includes new company formulation and companies that existed elsewhere but were new to Nebraska. The definition does not include two types of companies that are arguably bringing new *economic activity* to the state:

- 1) A company that had a minimal level of business activity prior participating in the Advantage Act and increased their activity in Nebraska significantly through Advantage Act participation; and
- 2) Expansion of an existing company into a completely different industry sector.

Stakeholders we met with were concerned that our definition could miss companies that had a minimal level of business activity prior to participating in the Act. To respond to that concern, we reviewed Labor employee data we had for 68 companies, which showed the number of full-time workers in each quarter between 2008 and 2014. That review identified one company that had a very small number of employees for at least one year before applying to participate in the Advantage Act.¹⁴ However, it still did not meet the definition of a new company because it had business activity in the state several years earlier.¹⁵

¹³ Geraldine Gambale, “30th Annual Survey of Corporate Executives: Cautious Optimism Reflected,” *Area Development Magazine*, Q1 2016. Factors in site selection found to be more important than state/local incentives were: availability of skilled labor, highway accessibility, quality of life, labor costs, occupancy or construction costs, available buildings, corporate tax rates, and proximity to major markets.

¹⁴ We say “at least” because it is possible that the employment pattern started before 2008, which was the earliest date for which the Labor Department had data.

¹⁵ It is possible that this company had a new federal identification number and that the employees under that FID reflected this pattern while the prior business activity was under one or more other FIDs.

SECTION III: Distressed Areas

Scope Question Answered: Is Nebraska Advantage meeting the goal of revitalizing rural and other distressed areas of the state?

Metrics Discussed in this Section

Metric 7: How many incentivized projects have locations in distressed areas of the state?

Metric 7: Distressed Areas

How many incentivized projects have locations in distressed areas of the state?

Results

Depending on the definition of distressed areas used for comparison, between one-third and nearly all of the 79 projects in our population had locations in distressed areas.

As the Advantage Act does not require projects to be located in distressed areas, the Act does not define such areas. We compared project locations to two very different standards:

- 1) Distressed areas as defined in two other tax incentive acts, which for 2014 covered 99% of the state's residents; and
- 2) Areas of Substantial Unemployment (ASU) defined by Labor, which for 2014, covered selected Census tracts in 15 of the state's 93 counties.

The vast majority of locations for the 79 projects in our population fell within distressed areas as defined by the other incentive acts. However, only 28 (35%) of the 79 projects had at least one location in an ASU.

Methodology/Discussion

Due to data limitations, we answered a slightly different question than the one asked by the LR 444 Committee. The Committee asked: Do incentivized companies create more new full-time jobs in areas of the state identified as distressed or non-distressed? We were unable to identify the actual number of *full-time jobs* created in distressed versus non-distressed areas because the Advantage reporting requirements capture full-time equivalents (FTEs), not jobs. Additionally, some projects have multiple locations, but companies are not required to report the specific location of new FTEs. The question we answered instead is: Are incentivized companies' *project locations* in areas of the state identified as distressed or non-distressed?

Project Locations

An Advantage Act project may have more than one location. For our 79 projects, 34 (43%) had a single location¹⁶ and the remaining 45 (57%) had two or more locations. To protect taxpayer confidentiality, we cannot report the highest number of locations for a single project, but some projects had 20 or more.

Due to time constraints, we could not analyze all of the locations for companies with many locations. Because of this, when one qualified location of a project was determined to be

¹⁶ Some of these had more than one *address* but were clearly only one location. If addresses for one project were reasonably close to one another (e.g. across the street), we considered them one location.

in an ASU, we considered the project to have *at least one location in a distressed area*. In contrast, most of the state is considered distressed under the definition of distressed areas in the other incentive acts, so we were able to determine that the vast majority of project locations were located in distressed areas.

Definitions of Distressed Area

Our first definition of distressed areas is from two other tax incentive acts (Angel Investment Tax Credit Act and Business Innovation Act).¹⁷ The definition of distressed area under the two incentive acts is a locality (municipality, county with fewer than 100,000 residents, unincorporated area in a county, or a census tract) that must meet only one of the following three criteria:

- 1) Has an unemployment rate which exceeds the statewide average unemployment rate;
- 2) Has a per capita income below the statewide average per capita income; or
- 3) Had a population decrease between the two most recent federal decennial censuses.

Because only one of the three criteria must be met, this definition is extremely broad. For 2014, 99.24% of the state’s population lived in areas that meet this definition of distressed area. Figure 3.1 shows the Census tracts that were *not distressed* under this definition.

Figure 3.1. 2014 Non-distressed Census Tracts Using Two Incentive Acts’ Definition of Distressed

County	Census Tract	2014 Population Estimate
Cheyenne	9549	4,437
Cheyenne	9550	2,766
Washington	502.01*	3,699
Washington	502.02	3,117
Total		14,019

Sources: Census tracts derived from LR 444 Tax Incentive Evaluation Committee Report, December 2014; population estimate from 2014 American Community Survey.
 *Within Census tract 502.01, the village of Kennard (population=367) was subtracted because it met the definition of distressed.

Nearly all of the qualified project locations for the 79 projects in our population are in counties other than Cheyenne and Washington—meaning they were in distressed areas. Of the qualified locations in those counties, only two were in non-distressed areas.

¹⁷ The definition is also very similar to one in Nebraska Advantage Microenterprise Tax Credit Act. The only difference is that the Microenterprise Act contains no upper limit on the population in a distressed area.

The second definition we used is Areas of Substantial Unemployment (ASU), used by Labor.¹⁸ According to the federal Department of Labor Employment and Training Administration, ASUs are defined as contiguous Census tracts that have an unemployment rate of higher than 6.5% and a combined population of at least 10,000 residents.

Under the 2014 ASU definition, there were nine ASUs: seven in portions of a single county and two in portions of several counties (15 counties total). Figure 3.2 shows the number and percent of Census tracts in each county that met the ASU criteria.

Figure 3.2. Counties in 2014 Areas of Substantial Unemployment

Name	Counties Included	Census Tracts		
		All	Number Distressed	Percent Distressed
Single-county ASUs				
Buffalo County ASU	Buffalo	11	2	18%
Dawson County ASU	Dawson	7	2	29%
Douglas County ASU	Douglas	156	90	58%
Lancaster County ASU	Lancaster	75	24	32%
Madison County ASU	Madison	9	4	44%
Sarpy County ASU	Sarpy	43	11	26%
Scotts Bluff County ASU	Scotts Bluff	11	6	55%
Multi-county ASUs				
Northeast Nebraska ASU	Burt	3	2	67%
	Dakota	4	3	75%
	Dodge	8	3	38%
	Thurston	2	2	100%
	Washington	5	1	20%
	Total		22	11
Southeast Nebraska ASU	Johnson	2	1	50%
	Nemaha	2	2	100%
	Richardson	3	2	67%
	Total		7	5

Source: Audit Office analysis of data from Nebraska Department of Labor, *Nebraska Workforce Trends*, January 2014.

¹⁸ As a requirement under the federal Workforce Innovation and Opportunity Act, formerly the Workforce Investment Act, the Labor Department assembles yearly maps of ASUs.

SECTION IV: Economic Impact

Scope Question Answered: What are the economic and fiscal impacts of the Advantage Act?

Metrics Discussed in this Section

Metric 8: How much do state agencies spend to administer and promote the Advantage Act?

Metric 9: What is the range of costs, in state and local benefits, for each new full-time equivalent?

Metric 8: Administrative Cost

How much do state agencies spend to administer and promote the Advantage Act?

Results

Using data for 2006 to 2014 provided by the Department of Revenue and the Department of Economic Development, their costs for all tax incentive programs was nearly \$16.9 million.

The Advantage Act, which the Department of Revenue administers and the Department of Economic Development promotes, contains no standard for its cost of administration and promotion. Neither agency tracks their expenditures specific to the Act because administration and promotion of the Act are done in conjunction with administration and promotion of other tax incentive programs. Figure 4.1 shows each department’s costs for all tax incentive programs from 2006 through 2014.

Figure 4.1. Estimated Cost to Administer and Promote Tax Incentive Programs, 2006-2014

Function	Department	Amount
Program Administration	Revenue	\$9,308,489
Program Promotion	Economic Development	\$7,564,181
Total		\$16,872,670

Source: Each department provided the figure for its expenditures. Revenue figure includes both staff who work solely on tax incentive programs as well as those who devote only a portion of their work time to those programs.

In addition to the data from 2006 to 2014, the Revenue Department also provided us with an estimate of the most recent annual administrative cost. For FY2015-16, Revenue paid \$1.6 million in wages and benefits to 14 full-time employees who work solely on tax incentive programs and others who spend some of their time on the incentive programs.

Revenue comment: “Much of the work related to the Act done by Revenue provides a cost savings to Nebraska because it ensures that credits and refunds are not granted unless the requirements of the Act are met.”

Methodology

The Audit Office requested cost figures from the two departments but did not verify the numbers they provided.

Metric 9: Cost per Full-time Equivalent

What is the range of costs, in state and local benefits, for each new full-time equivalent?

Results

We estimate that the average cost per full-time equivalent (FTE) ranged from \$24,500 to \$320,000 per Advantage Act project. The averages vary due to considerations in our calculations, such as which program benefits are included and the number of new FTEs attributed to the Advantage Act. As with any average, it is important to consider the range in the actual costs from which these averages are calculated.

We estimated the average cost per full-time equivalent (FTE) for 31 of the 79 projects in our population. Our cost per FTE estimates took two factors into account. The first was whether the cost side of the estimate should include all investment credits, sales tax refunds, and property tax exemption amounts in addition to compensation credits. We believe that whether those costs should be included is a policy question but do not have clear guidance on policymakers' intent. To show the significance of this question, we present estimates with and without these costs.

The second consideration was whether all of the new FTEs should be included in the estimate because it is unlikely that all new FTEs were created solely as a result of the Advantage Act. We present an estimate using 100% FTEs and one using 25% (based on other studies) for comparison.

Taking these factors into account, we provide four estimates for the cost per FTE. A detailed discussion of our methodology begins on page 39.

Average Cost per Full-time Equivalent Estimates

On the cost side, Estimate 1 uses all of the compensation credits earned by the 31 companies and a minimum amount of the other benefits they earned. On the FTE side, it uses 100% of the FTEs for which the companies received compensation credits. Of our four estimates, this one produces the lowest average cost per FTE—\$24,500—because it includes the lowest dollar amount of benefits and the highest number of FTEs.

When reporting averages, it is also important to provide the lowest and highest actual numbers in the group of numbers used. To protect taxpayer confidentiality, we cannot report the specific amounts for the companies with the lowest and highest cost per FTE. Instead, we report the amount that at least three companies at the lowest end of the range were below and the amount that at least three companies at the highest end were above. For example, for Estimate 1, at least three companies had actual costs per FTE of less than \$9,600 and at least three companies had actual costs per FTE of more than \$100,200.

Estimate 2 also uses all of the compensation credits but instead of using a minimum amount of other benefits earned, it uses all other benefits earned. The result is an average cost per FTE of \$80,000, with the lowest actual cost per FTE of less than \$11,400 and the highest of more than \$419,400. Estimates 1 and 2 are shown in Figure 4.2.

Figure 4.2. Average Cost per FTE Using 100% of FTEs Created, Comparing Minimum and Maximum Amount of Benefits Earned

Estimate	Comp. Credits*	Invest. Credits	Sales & Property Tax	FTEs Counted	Cost per FTE		
					Lowest Company	Average	Highest Company
1	All	Minimum	50%	100%	< \$9,600	\$24,500	> \$100,200
2	All	All	All	100%	< \$11,400	\$80,000	> \$419,400

Source: Audit Office analysis of Revenue Department data.

* For both compensation and investment credits, we used 90% of the actual amount earned.

The biggest factor in the higher costs in Estimate 2 is the amount of investment credits earned. As stated on page 7, for all 79 projects included in this study, investment credits made up 64% of the benefits earned. For the 31 companies used in the cost per FTE analysis, that percentage was 65%. Even if one disagrees with including all program benefits in the FTE cost calculation, doing so highlights how significant the investment credits are in the program’s cost.

Estimates 3 and 4 show how the average changes if you reduce the number of FTEs the program is credited with creating. In its annual tax incentive reports, Revenue acknowledges that some of the FTEs would have been created without the Advantage Act. Additionally, studies that attempt to isolate how many jobs or FTEs are created by incentive programs suggest that the number is much lower than 100%. For the following estimates, we chose 25%. We are not asserting that 25% is the precise percentage of new FTEs that can be attributed to the Advantage Act. Instead, we use that percentage—which is in the range supported by existing research—as an example, to show how significant this factor is to the cost per FTE calculations. (Our use of 25% is discussed further on page 41.)

Estimate 3 uses the same costs as Estimate 1—all compensation credits and a minimum of other benefits—but only 25% of the new FTEs. This produces a higher average cost per FTE—\$98,100. At least three companies had actual costs per FTE of less \$38,400 and the at least three companies had actual costs per FTE of more than \$401,400.

Estimate 4 produces the highest average cost per FTE—\$320,000—because it uses all benefits and only 25% of the FTEs. Using this method the lowest actual cost per FTE was less than \$44,400 and the highest was more than \$1.6 million. Estimates 3 and 4 are shown in Figure 4.3 on the following page.

Figure 4.3. Average Cost per FTE Using 25% of FTEs Created, Comparing Minimum and Maximum Amount of Benefits Earned

Estimate	Comp. Credits*	Invest. Credits	Sales & Property Tax	FTEs Counted	Cost per FTE		
					Lowest	Average	Highest
3	All	Minimum	50%	25%	< \$38,400	\$98,100	> \$401,400
4	All	All	All	25%	< \$44,400	\$320,000	> \$1,679,400

Source: Audit Office analysis of Revenue Department data.

* For both compensation and investment credits, we used 90% of the actual amount earned.

The Appendix contains additional detail on the components of the four estimates.

Annual Cost

The Advantage Act permits companies to earn additional tax credits for each year they maintain their newly created FTEs. The 31 projects used in this analysis maintained their FTEs for an average of 6.45 years. To show the cost per FTE for each year the FTEs were maintained, we divided the highest and lowest costs in our ranges by six. As shown in Figure 4.4, for the lowest average cost per FTE (\$24,500), the cost *per year* that the FTE in place was \$4,088. For the highest average (\$320,000), it was \$53,335 per year.

Figure 4.4. Lowest and Highest Average Cost-per FTE Estimates Shown by Years the FTEs were Maintained

Cost Per FTE	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total*
Lowest Average	\$4,088	\$4,088	\$4,088	\$4,088	\$4,088	\$4,088	\$24,500
Highest Average	\$53,335	\$53,335	\$53,335	\$53,335	\$53,335	\$53,335	\$320,000

Source: Audit Office analysis of Revenue Department data.

*The yearly estimates do not exactly equal the total due to rounding.

Methodology/Discussion

Due to data limitations, we answered a slightly different question than the one asked by the LR 444 Committee. The Committee asked: What is the cost, in state and local Advantage Act benefits, per job created? We could not calculate a cost per *job* because, as discussed in Section II, no state agency tracks jobs. The Advantage Act requires incentivized companies to create FTEs, so that is what we used in this analysis.

Full-time Equivalent

To accurately count the FTEs created by each company, we had to calculate the cost per FTE for each company for each year it received compensation tax credits. That calculation resulted in a cost-per FTE-*year* for each of our 31 companies. For the average, low cost, and high cost, we multiplied each company's FTE-per year cost by six, which was the average number of years for which the 31 companies had received compensation credits. Figure 4.5 on the following page shows these figures for each estimate.

Figure 4.5 Costs per FTE using Cost per FTE-year Calculations

Estimate	Lowest Actual		Average		Highest Actual	
	Cost per FTE-Year	Cost per FTE*	Cost per FTE-Year	Cost per FTE*	Cost per FTE-Year	Cost per FTE*
1	< \$1,600	< \$9,600	\$4,088	\$24,500	> \$16,700	> \$100,200
2	< \$1,900	< \$11,400	\$13,334	\$80,000	> \$69,900	> \$419,400
3	< \$6,400	< \$38,400	\$16,351	\$98,100	> \$66,900	> \$401,400
4	< \$7,400	< \$44,400	\$53,335	\$320,000	> \$279,900	> \$1,679,400

Source: Audit Office analysis of Revenue Department data.

* Cost per FTE-year multiplied by six years, which was the average for the 31 projects in this analysis.

Cost Estimate

We had to estimate costs because the actual costs cannot be known until a project is completely finished, and none of the 79 projects in our population were completed by the end of the review period. However, the 31 projects we used for this metric had earned their maximum amount of compensation and investment tax credits.¹⁹ While they may earn additional sales and property tax benefits, they cannot earn additional tax credits, which for most projects make up the largest benefit cost. All 31 projects were in tiers that required FTE creation.

We also cannot know how many of the tax credits earned by the end of the review period will actually be used by the time the projects are completed. We consulted with Revenue staff on this and decided to estimate 90% usage of the earned credits.²⁰

Additionally, how long a project maintains the FTEs after the project is completed would impact the cost per FTE *per year*. For example, if a project creates 10 FTEs and receives a total of \$60,000 in Advantage Act benefits and those FTEs are retained for six years, the cost per year of those FTEs would be \$10,000. However, if the FTEs are retained for 10 years, the annual cost would drop to \$6,000 per year.

Should Investment Credits be Included?

The argument in favor of including the cost of investment credits is that the cost per FTE would reflect all of the program's benefits. The argument against doing so is that increasing investments could be seen as a goal separate from FTE creation, and, if it is separate, it would be unfair to include them as part of the FTE cost. Given that the investment credit makes up the program's highest benefit cost, this is an important decision.

¹⁹ These figures reflect recapture for a few companies that experienced one or more years in recapture during the review period. According to Revenue, in the year the company is in recapture, no credits are earned. In addition, a percentage of credits earned in other years is reduced due to the years in recapture.

²⁰ Based on a suggestion from Revenue staff, we used a different percentage for fewer than three companies, but to protect taxpayer confidentiality we cannot describe it.

Under the Advantage Act, investment and FTE creation are separate goals in the sense that the Act provides benefits related to each. However, much about the Act emphasizes FTE creation over investment. First, in all but one tier, a company has to meet both the investment and FTE creation requirements in order to receive the benefits for either one. (In the other tier, the company must maintain its existing FTEs but does not have to create new ones.) Second, the legislative history for the bill that created the Advantage Act focuses much more on the goal of FTE creation than investment. Investment is mentioned as having some benefit in and of itself but that discussion was minor compared to the discussion of FTE creation.

Should All Full-time Equivalents be Included?

Informed sources, including Revenue, acknowledge that some of the FTEs created by incentivized companies would have been created even without the companies' participation in the Advantage Act.²¹ There is no simple way to estimate the proportion of the FTEs that can be attributed to the Advantage Act, and due to time constraints for this audit, we did not attempt to calculate such an estimate. Instead, we chose to use 25% because it is in a range used in two other state's evaluations that estimated that the proportion of jobs attributable to their incentives was 21% and 24%.²² However, it is only an estimate.

Other Considerations

We note that there is some risk of overestimation in the total number of FTEs for each project. Revenue verifies the FTEs claimed by companies in order to qualify for the Advantage Act, but not all companies are subject to additional audits after the Qualification Audit. That means it is possible that in later reports, companies could overstate their number of FTEs. However, we believe this risk is relatively low because, according to Revenue staff, they review company FTE claims and investigate anything that seems out of the ordinary. Additionally, the potential for additional audits and the Act's recapture provisions serve as a deterrent—a company that overestimated its FTEs, if discovered, would have to repay the benefits received on any FTEs that could not be confirmed by Revenue.

Revenue comment: “The Department notes that a cost per job analysis that does not utilize economic modeling cannot account for the creation of indirect jobs or what may happen after the entitlement period. For example, a job could remain for one year after the end of the entitlement period or twenty years after the end of the entitlement. This would have an impact on the cost per job.”

²¹ For example, see State of Minnesota Office of the Legislative Auditor, *JOBZ Program Evaluation Report*, February 2008, and T. Bartik, G.A. Erickcek, W.E. Upjohn Institute for Economic Research, *Simulating the Effects of Michigan's MEGA Tax Credit Program on Job Creation and Fiscal Benefits*, 2012. For the Revenue Department's acknowledgement of this point, see *Nebraska Tax Incentives 2014 Annual Report to the Legislature*, July 15, 2015, p. 46.

²² See the reports cited in footnote 21.

The Office agrees that the analysis does not include FTEs created indirectly, such as FTEs at companies that support the incentivized companies or those that use their products and services. Estimating indirect job creation is best done through economic modeling and, as noted elsewhere in this report, we were unable to use economic modeling for this audit.

SECTION V: Fiscal Impact

Scope Question Answered: Are adequate protections in place to ensure the fiscal impact of the Advantage Act does not increase substantially beyond the state's expectations in future years?

Metrics Discussed in this Section

Metric 10: What other state benefits have companies participating in the Advantage Act received?

Metric 11: Are adequate protections in place to ensure that in future years the fiscal impact of the Advantage Act does not increase substantially beyond the state's expectations?

Metric 10: Other State Benefits

What other state benefits have companies participating in the Advantage Act received?

Results

Of the 78 companies with projects in our population, 58 received another state benefit from programs administered either by the Department of Economic Development or the Department of Revenue.

In total, 35 Advantage Act companies received over \$14.6 million from other Department of Economic programs, while 46 of the companies in our population received over \$548 million from other Revenue Department programs.

As shown in Figure 5.1, 35 Advantage Act companies participated in either a Department of Economic Development (DED) administered or Revenue-administered program and 23 participated in programs administered by both departments. The Advantage Act contains no standard regarding incentivized companies participating in the other programs reviewed for this metric.

Figure 5.1. Advantage Act Companies Participating in DED- and Revenue-administered Programs

Program	Advantage Act Companies
Revenue-administered programs only	23
DED-administered programs only	12
Revenue-administered and DED-administered programs	23
Total	58

Source: Audit Office compilation of data from each agency.

Programs Administered by the Department of Economic Development

DED administers four programs that provided benefits to Advantage Act recipients: Customized Job Training; the Nebraska Internship Program; the Business Innovation Act; and the Site and Building Development Fund. In total, 35 Advantage Act companies received over \$14.6 million from these programs.

The Customized Job Training program provided the most benefits to Advantage Act participants, totaling nearly \$12.6 million. The combined benefits from the other three programs totaled just over \$2 million, as shown in Figure 5.2.

Figure 5.2. DED-administered Programs, Use by Advantage Act Companies

Program	Advantage Act Companies Participating	Number of Awards	Total to Advantage Act Companies (%)
Customized Job Training	26	40	\$12,595,755 (86%)
SBDF	3	3	\$1,200,000 (8%)
InternNE	14	30	\$618,000 (4%)
Business Innovation Act	1	3	\$200,000 (2%)
Total	44*	76	\$14,613,755 (100%)

Source: Audit Office compilation of Department of Economic Development data.

*Total is higher than all companies (35) because some companies received multiple awards.

Of the 35 Advantage Act companies, 12 received benefits from multiple applications to a single program. Additionally, eight companies received benefits from two programs and one company received benefits from three program.

Benefits by Tiers and Industry Sectors

Of the 35 companies that received benefits from the DED programs, 28 (80%) were in Tiers 2 and 4.

Figure 5.3. DED Program Benefits by Tier

Tier	Number of Companies (%)
2	18 (51%)
4	10 (29%)
1 + 5*	4 (11%)
3	3 (9%)
Total	35 (100%)

Source: Audit Office compilation of DED data.

*Combined to protect taxpayer confidentiality.

Of the 35 companies that received benefits from the DED programs, 18 (51%) were in the manufacturing, transportation, and warehousing sectors, as shown in Figure 5.4.

Figure 5.4. DED Program Benefits by Company Industry Sector

Industry Sector	Number of Companies (%)
31-33 Manufacturing *	18 (51%)
48 Transportation—Air, Water, Trucking, Rail, Pipelines *	
49 Warehousing—Storage and Delivery [‡]	
52 Finance and Insurance	7 (20%)
51 Information	4 (11%)
54 Professional, Scientific, and Technical Services	3 (9%)
56 Administrative and Support/Waste Management and Remediation Services	3 (9%)
Total	35 (100%)

Source: Source: Audit Office compilation of Department of Economic Development data with Revenue Department industry sector codes.

*To protect taxpayer confidentiality, we combined industries that had fewer than three companies.

Timing

We looked at when companies received awards from these four programs relative to two significant points in the Advantage Act program process: 1) when each company applied for Advantage Act benefits and 2) when the company signed its Advantage Act agreement. Of the 35 Advantage Act companies, 13 (37%) received benefits from a DED program before they applied to the Advantage Act; 8 (23%) received benefits after they applied but before they signed Advantage Act agreements; and the remaining 14 (40%) received benefits after signing their agreements.

Figure 5.5. Timeline of Companies Receiving DED Program Benefits

Companies Receiving DED Benefits	Applied for Advantage Act	Companies Receiving DED Benefits	Signed Advantage Act Agreement	Companies Receiving DED Benefits
13		8		14

Source: Audit Office calculations using data from the Revenue Department's tax incentives database.

Note: For companies that received more than one award, we used the first award date.

Programs Administered by the Department of Revenue

Revenue administered four incentive programs prior to and/or during the Advantage Act, including the Nebraska Employment and Investment Growth Act (LB 775), Nebraska Employment Expansion and Investment Incentive Act (LB 270), and the Ethanol Production Incentive Program (EPIC). Revenue currently also administers the Nebraska Advantage Research and Development (R & D) program. Forty-six of the companies in our population received over \$548 million from these programs.

As shown in Figure 5.6 on the following page, 35 companies participated in the Nebraska Employment and Investment Growth Act, eight participated in the Employment Expansion and Investment Incentive Act, two participated in the Ethanol Production

Incentive Program, and nineteen participated in the Nebraska Advantage Research and Development program.

Figure 5.6. Revenue-administered Programs, Use by Advantage Act Companies

Program	Advantage Act Companies Participating	Total Used by Advantage Act Companies (%)	Years
Employment and Investment Growth Act (LB 775)	35	\$544,657,829 (99.2%)	1987-2014
Advantage Act Research and Development (R&D)	19	\$3,152,796 (0.5%)	2007-2014
Employment Expansion and Investment Incentive Act (LB 270)	8	\$1,048,940 (0.3%)	1996-2006
Ethanol Production Incentive Program (EPIC)	2	**	2002-2012
Total	64*	\$548,859,565 (100%)	

Source: Audit Office analysis of Revenue Department data.

* The total is higher than all companies (46) because 15 companies received multiple awards for individual programs.

** The amount for EPIC cannot be reported in order to protect taxpayer confidentiality.

Timing

The Advantage Act companies received most of their benefits from these programs prior to their participation in the Advantage Act. Benefits from the Employment and Investment Growth Act (LB 775) made up 99% of the benefits from these programs). As shown in Figure 5.7, the vast majority of those benefits were received by Advantage Act companies prior their participation.

Figure 5.7. Timing of Advantage Act Companies Receipt of LB 775 Benefits

Prior to Advantage Act Application	After Advantage Act Application, through 2014
\$501,774, 516 (92%)	\$42,883,313 (8%)

Source: Compiled by Revenue Department staff.

The two Advantage Act companies that participated in the Ethanol Production Incentive Program received half or more of the ethanol benefit while participating in the Advantage Act. The Advantage Act Research and Development program has been administered concurrently with the Advantage Act and the Advantage Act companies could have received benefits from it prior to applying for the Advantage Act or at the same time. The Employment Expansion and Investment Incentive Act (LB 270) ended before the first applications to the Advantage Act were submitted.

Methodology/Discussion

The Audit Office analyzed data provided by DED and Revenue. We provided DED with the names of the Advantage Act companies in our population (which were public information) and DED looked for those companies in their records to identify the ones that had participated in the:

- Customized Job Training (1989): a grant “to provide employee training assistance to businesses that maintain, expand and diversify the state’s economic base” to create and retain jobs in the state;
- Nebraska Internship Program (2011): InternNE, provides grants to support internship opportunities for upperclassmen public high school and college students;
- Business Innovation Act (2011): “competitive grants provide funding and technical assistance for research...new product and development and testing, and help expand small business and entrepreneur outreach efforts”:
 - Nebraska Small Business Innovation Research Initiative (SBIR, provides support for applications to the federal Small Business Research Program);
 - Nebraska Innovation Fund (provides support to proof of concept activities and commercialization of products or processes); and
- Site and Building Development Fund (2011): SBDF, provides assistance for “industrial-ready sites and buildings” to increase the industrial readiness of the state.

Revenue conducted a similar review to identify the Advantage Act companies in our population that had participated in the:

- Employment and Investment Growth Act (1987): Nebraska’s largest incentive program before it was replaced by Nebraska Advantage in 2005, which provided tax credits and sales tax refunds for companies that met minimum hiring and investment requirements;
- Employment Expansion and Investment Incentive Act (1987): granted incentives to businesses who increased employment levels and invested a minimum amount;
- Ethanol Production Incentive Program (EPIC, 2002): provided a credit per gross gallon of ethanol produced. The credits were only eligible to be “transferred to a motor vehicle fuel licensee to be used against a tax liability;” and
- Nebraska Advantage Research and Development Act (2005): “offers a refundable tax credit for qualified research and development activities undertaken by a business entity for 21 years.”

Metric 11: Fiscal Protections

Are adequate protections in place to ensure that in future years the fiscal impact of the Advantage Act does not increase substantially beyond the state's expectations?

Results

The Advantage Act has some fiscal protections in place, including performance-based incentives and a recapture provision should a company not meet its obligation. However, it does not have the types of protections that would prevent the program from increasing substantially beyond the state's expectations.

Comparing the Advantage Act to recommendations by The Pew Charitable Trusts,²³ which are shown in Figure 5.8, we found that the Advantage Act has some fiscal protections in place, including performance-based incentives and a recapture provision should a company not meet its obligation. However, it does not have the types of protections that would prevent the program from increasing substantially beyond the state's expectations. In some years, program costs have already exceeded the amounts discussed when the program was created and economic modeling suggests that it will happen again.

²³ The Pew Charitable Trusts, *Reducing Budget Risks: Using data and design to make state tax incentives more predictable*, December 2015.

Figure 5.8. 2015 Pew Report Fiscal Protection Recommendations

Pew Report Recommendations	Advantage Act	Audit Office Remarks
1. Gather and share high-quality data on the costs of incentives by:		
Regularly forecast the cost	Yes	
Monitor costs and commitments of large and high-risk programs	Yes	
Share timely information on incentives across relevant agencies	Partial	
2. Design incentives in ways that reduce fiscal risk, including:		
Capping how much programs can cost each year	No	
Controlling the timing of incentive redemptions	Partial	Exists for sales tax impact on cities but not for benefits that impact the state budget
Requiring lawmakers to pay for incentives through budget appropriations	No	
Restricting the ability of companies to redeem more in credits than they owe in taxes	Yes	
Linking incentives to company performance	Yes	Advantage Act benefits are performance-based
Requiring businesses to provide advance notice of program participation	Yes	Businesses must apply to participate

Source: Audit Office analysis of information from The Pew Charitable Trusts, *Reducing Budget Risks: Using data and design to make state tax incentives more predictable*.

In recent years, Advantage Act costs (revenue foregone) to the state have begun to exceed the Legislature’s original expectations of \$24 to \$60 million per year.²⁴ At the end of calendar year 2014, annual dollar amount of benefits used were within that range except for 2013, which was higher, as shown in the figure below.

Figure 5.9. Total Revenue Foregone by the State for All Advantage Act Benefits Used

CY2008	CY2009	CY2010	CY2011	CY2012	CY2013	CY2014
\$1,073,130	\$1,001,191	\$53,191,055	\$28,971,057	\$42,747,129	\$108,739,647	\$59,125,841

Source: Audit Office analysis of data from the Revenue Department’s tax incentives database.

²⁴ The LB 312 (2005) fiscal note anticipated \$24 million each year in the two years after the bill passed (FY2005-06 and FY2006-07). During floor debate, Senators discussed the program costing the state \$50 to \$60 million per year in later years.

Revenue Department projections using economic modeling suggest the potential revenue foregone in some future years could be as high as \$100 million.²⁵

Revenue estimates that by 2025, the cumulative amount of foregone state revenue will be more than \$925 million.²⁶ That estimate factors in new projects being approved between 2015 and 2025. If there were no additional projects other than the 79 projects in our population, the 2025 cumulative foregone state revenue estimate is \$473 million.²⁷

When we add the cost of the Act for local governments to revenue foregone by the state, the total fiscal impact of the Advantage act is higher, as shown in the figure below.

Figure 5.10. Total Revenue Foregone by All Levels of Government for All Advantage Act Benefits

CY2008	CY2009	CY2010	CY2011	CY2012	CY2013	CY2014
\$1,223,957	\$1,202,542	\$57,010,878	\$43,092,033	\$58,428,986	\$127,762,700	\$78,222,655

Source: Audit Office analysis of data from the Revenue Department's tax incentives database.

Methodology/Discussion

We compared the Pew Charitable Trusts' recommendations with the legislative history of LB 312 (2005), which created the Advantage Act.

²⁵ Economic modeling based on the TRAIN program. Nebraska Department of Revenue, *Nebraska Tax Incentives 2014 Annual Report to the Nebraska Legislature*, p. 47.

²⁶ Nebraska Department of Revenue, *Nebraska Tax Incentives 2015 Annual Report to the Nebraska Legislature*, p. 52. We used the 2015 report data, rather than data from the 2014 report as we have elsewhere because the 2014 report did not contain cumulative revenue gain or loss figures.

²⁷ Nebraska Department of Revenue, Economic modeling based on the TRAIN program, October 11, 2016.

SECTION VI: Local Impact

Scope Question Answered: What is the fiscal impact of the Advantage Act on the budgets of local governments?

Metrics Discussed in this Section

Metric 12: What is the fiscal impact on local governments of the Advantage Act's sales tax refunds?

Metric 13: What is the fiscal impact on local governments of the Advantage Act's property tax exemption?

Metric 12: Local Impact—Sales Tax

What is the fiscal impact on local governments of the Advantage Act's sales tax refunds?

Results

Between 2008 and 2014, 58 of the 78 companies in our population received a total of \$14.5 million in Advantage Act refunds of local sales taxes.²⁸ The refunds resulted in a loss of \$14.5 million to the 142 Nebraska cities in which the sales occurred.²⁹

For the vast majority of cities (108 or 76%), the total loss was less than \$5,000 each. Individual cities lost between \$0.75 and \$7.5 million, as shown in the figure below. (See page 56 for a description of how the refund process works.) The Advantage Act contains no standard for determining whether the impact of the sales tax reductions on a city is “too large.” (The legislative history for the bills that dealt with impact delays reflects that the concern being addressed was the timing of the impact of the refunds on cities, not the dollar amount.)

Figure 6.1. Sales Tax Amounts Lost, by Number of Cities, 2008-2014

Amount Lost	Cities	
	Number	Percent of Total
\$0.75 to \$999	60	42%
\$1,000 to \$4,999	48	34%
\$5,000 to \$9,999	7	5%
\$10,000 to \$19,999	8	6%
\$20,000 to \$29,999	6	4%
\$35,000 to \$85,000	5	3.5%
\$100,000 to \$999,999	5	3.5%
\$1 million to \$7.5 million	3	2%
Total	142	100%

Source: Audit Office analysis of Revenue Department data.

²⁸ In this report, the term “sales tax” refers to both the state’s sales tax and its use tax. The use tax applies when the sales tax has not been paid on a transaction that is subject to sales tax.

²⁹ The loss of sales tax revenue to a city generally occurs a year or more after the sale took place, as explained later in this section.

In order to protect taxpayer confidentiality, we can only report the city names and amount of sales tax lost by Bellevue, Columbus, Grand Island, Lincoln, and Omaha.³⁰ The total losses for these cities ranged from \$6,325 in Columbus to more than \$7.5 million in Omaha. We also compared losses for each city with their total sales tax collections for the same period, which showed that the Advantage Act losses were relatively small compared to the total collections. The smallest impact was less than one-tenth of 1% (Columbus) and the highest was 1.2% (Bellevue). The full breakdown is shown in Figure 6.2.

Figure 6.2. Sales Tax Loss as a Percentage of Total Sales Tax Collections, by City, 2008-2014

City	Total Collections	Advantage Act Reductions	Reductions as a Percentage of Collections
Bellevue	\$64,062,280	\$747,967	1.2%
Omaha	\$907,492,679	\$7,517,141	0.8%
Lincoln	\$418,712,137	\$1,901,643	0.5%
Grand Island	\$99,409,745	356,688	0.4%
Columbus	\$40,246,845	\$6,325	0.02%

Source: Audit Office analysis of Revenue Department data.

Although the impact on these cities over the whole review period was small, the impact on Lincoln and Omaha in some individual years was larger. For example, Omaha lost \$3.3 million in 2014, which represents 2.3% of its sales tax revenue that year. Lincoln's losses show a similar pattern, although the yearly losses did not increase as much as Omaha's. The individual years that we can report without disclosing confidential taxpayer information are shown below.

Figure 6.3. Omaha and Lincoln Reportable Annual Lost Sales Tax Revenue, and Percent of Collections, by Year

Omaha				
2008 to 2010	2011	2012	2013	2014
\$291,044	\$247,563	\$733,084	\$2,914,430	\$3,331,019
	0.2%	0.6%	2.2%	2.4%
Lincoln				
2008 to 2012	2011	2012	2013	2014
\$694,152	*	*	\$639,379	\$568,112
	NA	NA	1%	0.9%

Source: Audit Office analysis of Revenue Department data.

*To protect taxpayer confidentiality, we could not report figures for these years.

³⁰ These are the only cities that lost tax revenue from 10 or more companies participating in the Advantage Act.

For the 137 cities that we cannot report on individually, we grouped the cities by class size: First Class cities (27 cities³¹), Second Class cities (74 cities), and Villages (36 villages) and reported the sales tax loss by class. Within each class, the total lost between 2008 and 2014 by the individual cities ranged widely. For example, the lowest amount lost by a first class city was just \$431.00, compared to a high of \$2.6 million. The full breakdown is shown in Figure 6.4. To give a better sense of typical amounts lost by cities, the figure also shows the median amount for each class. (In each class, half of the cities had losses above the median amount and half below it.)

Figure 6.4. Range of Sales Tax Lost by Individual Cities in Each Class, 2008-2014

Class	Minimum	Maximum	Median
First	\$431.00	\$2,600,000	\$11,793
Second	\$0.75	\$369,000	\$1,234
Village	\$1.19	\$24,000	\$553

Source: Audit Office analysis of Revenue Department data.

For most of the 137 cities, the total amounts refunded for the 2008 to 2014 period represented relatively small proportions of the city’s sales tax revenue, similar to the proportions of the individual cities reported on earlier in this section. For 126 of the cities, the refunds were less than 1% of the revenue. For most of the remaining 11 cities, the refunds were less than 5%, but a few were more than 5% but less than 11%. Two cities had refunds of 25%, as discussed later in this section.

The proportions in individual years for these cities were also relatively small, although 12 cities had at least one year when the proportion of their annual refunds to receipts was greater than 5%—a higher proportion than any year for the individual cities reported on earlier in this section.

Standards for the Deduction of Refunds from Payments to Cities

The Advantage Act has no limit on the amount or proportion of a city’s sales tax revenue that can be refunded to incentivized companies. However, in the years following adoption of the Advantage Act, the Legislature added provisions making it easier for cities to manage reductions to their revenue due to the refunds.

The Revenue Department collects both the state and local sales taxes and under the usual process, it returns the cities’ portions to them every month. For Advantage Act refunds, the revenue returned to the cities is reduced when Revenue pays an incentivized company’s refund claim. Refund claims are generally paid only after the company has met its investment and job creation requirements, which can be years after the sales tax was paid. Because of this delay between when the tax was paid and the reduction of the city’s revenue, cities sometimes had trouble adjusting their budgets when a large sales tax refund was deducted from their sales tax revenue.

³¹ This group consists of all first class cities except Bellevue, Columbus, and Grand Island, which were reported on individually.

To respond to this concern, the law was changed to require that:

- 1) For refund amounts over \$1,500, Revenue must notify the city of the amount and when it will be deducted;
- 2) The reduction to a city's sales tax income must be delayed for one year after Revenue has made the refund to the incentivized company;³² and
- 3) For refund amounts of more than 25% of a city's total sales tax collected the previous year, the reduction must be deducted in equal portions over 12 months.

Of the 142 cities in this analysis, only two reached the 25% threshold during our review period—one for a single year prior to the adoption of the 25% threshold and one for a single year after that. To protect taxpayer confidentiality, we cannot report the cities' name but can report that one was a First Class city and one a Second Class city.

Sales Tax Benefits by Tier of Incentivized Companies

In our population, companies in Tier 4 benefited the most from the sales tax reductions, receiving about \$9 million in benefits, or 60% of the total. The next highest benefit went to companies in Tier 2, which received about \$5 million, or 34% of the total, as shown in Figure 6.5.

Figure 6.5. Advantage Act Sales Tax Benefits by Tiers of Incentivized Companies, 2008-2014

Tier	Amount	Percent of Total
Tier 4	\$8,717,426	60%
Tier 2	\$4,937,967	34%
Tiers 1 & 5*	\$884,140	6%
Total	\$14,539,513	100%

Source: Audit Office compilation of Revenue Department data.

*Tiers combined to protect taxpayer confidentiality.

Sales Tax Benefits by Industry Sectors of Incentivized Companies

Between 2008 and 2014, incentivized companies in the Finance and Insurance industry sector benefited the most from the local sales tax reductions, receiving about \$6.6 million in benefits, or 45% of the total. The next highest benefit went to incentivized companies in the Information industry sector, which received almost \$3.6 million, or 25% of the total. Figure 6.6 shows the complete breakdown by industry sector.

³² This provision applies to all cities except Lincoln and Omaha.

Figure 6.6 Local Sales Tax Benefits by Incentivized Companies' Industry Sector, 2008-2014

Industry Sector	Amount	Percent of Total
52 Finance and Insurance	\$6,603,557	45%
51 Information	\$3,580,503	25%
48-49 Transportation and Warehousing	\$1,444,646	10%
54 Professional, Science, Technical Services	\$1,367,252	9%
33 Manufacturing—Metal, Machinery, Electronics, and Others	\$816,254	6%
32 Manufacturing—Non-metallic Goods (Chemicals, Pharmaceuticals, and Others)	\$458,433	3%
56 Administrative and Support/ Waste Management and Remediation Services	\$146,726	1%
31 Manufacturing—Food, Beverage, Textiles, and Animal Products	\$122,144	1%
Total	\$14,539,513	100%

Source: Audit Office analysis of Revenue Department data.

Methodology/Discussion

Nebraska has a mandatory state sales tax and cities have the option of establishing a local sales tax. We analyzed only the local sales taxes since the metric targets impact on local governments.

We looked at the direct impact of the program on cities from 1) revenue lost due to the Advantage Act sales tax direct refund, and 2) revenue lost due to tax credits used by participating companies to reduce their sales tax liability. Figure 6.7 shows which tiers include each of these benefits.

Figure 6.7. Tiers with Sales Tax Refunds

Tier	Direct Refund? (%)	Credit Use?
1	Yes (50%)	Yes
2	Yes (100%)	Yes
3	No	Yes
4	Yes (100%)	Yes
5	Yes (100%)	No
6	Yes (100%)	Yes

Source: Audit Office compilation of data from Nebraska Department of Revenue, *Nebraska Tax Incentives 2014 Annual Report to the Nebraska Legislature*.

There may also be a positive impact on city governments from additional economic activity Advantage Act companies brought to localities because new jobs may have allowed employees to make more purchases and thereby pay additional sales tax. There is no simple way to identify such indirect increases and we did not attempt to include them in this analysis.

Metric 13: Local Impact—Property Tax

What is the fiscal impact on local governments of the Advantage Act's property tax exemption?

Results

Between 2008 and 2014, property in seven counties was exempted from taxation due to the Advantage Act property tax exemption. The exemption was claimed by 17 companies and totaled approximately \$57.6 million.

The largest impact was on Platte county (\$29.1 million), followed by Washington county (\$13.6 million) and Sarpy county (\$12 million). The full breakdown is shown in the figure below. The Advantage Act contains no standard for determining whether the impact of the property tax exemptions on political subdivisions is “too large.”

Figure 6.8. Estimated Amount of Advantage Act Property Tax Exemption by Counties, 2008-2014

County	Amount	Percent of Total
Platte	\$29,074,061	51%
Washington	\$13,589,122	24%
Sarpy	\$11,945,839	21%
Douglas	\$2,315,832	4%
Saline	\$388,244	0.7%
Lancaster	\$150,531	0.3%
Buffalo	\$91,559	0.2%
Total	\$57,555,189	101%*

Source: Audit Office analysis of Revenue Department data.

* The total is more than 100 due to rounding.

For five of the seven counties, the estimated amount of property tax benefits made up less than 1% of the county's total property tax collections. However, for Platte county the benefits made up more than 7% of collections, and for Washington county, close to 5%. The full breakdown is shown in Figure 6.9.

Figure 6.9. Property Tax Exemptions as a Percentage of Total Taxes Collected, by County, 2008-2014

County	Total Collected	Advantage Act Exemption Amount	Exemptions Percent of Collections
Platte	\$381,443,199	\$29,074,061	7.6%
Washington	\$296,301,091	\$13,589,122	4.6%
Sarpy	\$1,753,521,768	\$11,945,839	0.7%
Saline	\$180,491,181	\$388,244	0.2%
Douglas	\$5,691,297,015	\$2,315,832	0.04%
Buffalo	\$499,382,604	\$91,559	0.02%
Lancaster	\$2,724,042,754	\$150,531	0.006%

Source: Audit Office analysis of Revenue Department data.

Property taxes support multiple political subdivisions. Between 2008 and 2014, the largest impact of the Advantage Act exemption was on school districts, which lost the highest proportion (\$35.5 million or 60% of the total exempted), followed by counties (\$9.3 million or 17%) and cities/villages (\$5.7 million or 10%). The full breakdown is shown below.

Figure 6.10. Estimated Amount of Advantage Act Property Tax Impact on Political Subdivisions, 2008-2014

Subdivision	Amount	Percent of Total
School Districts	\$34,295,226	60%
County	\$9,502,483	17%
City or Village	\$5,949,653	10%
Community College	\$2,777,859	5%
Miscellaneous Districts	\$2,450,175	4%
Natural Resource Districts (NRDs)	\$1,100,156	2%
Fire Districts	\$725,053	1%
Educational Service Units (ESUs)	\$484,186	1%
Townships	\$269,025	0.5%
Total	\$57,553,815	100%

Source: Audit Office analysis of Revenue Department data.

Revenue comment: “Because any short fall in equalized school districts and community college areas will be made up by state aid, this would more accurately be categorized as a cost to the state.”

Methodology

The Audit Office identified the value of property exempted and the county in which it was located from claims data contained in Revenue's tax incentives database. We estimated the amount of the exemption by multiplying the property value by the relevant county's average property tax rate for the year prior to the claim. We obtained the subdivision breakdowns from the annual reports of Revenue's Property Tax Division.

Revenue suggested that our use of the average county rate is less accurate than obtaining the actual rate for each project location. For this audit, we were unable to do that within the timeframe for the audit but will obtain the actual rate for each project location in future audits, if possible.

Companies participating in Tiers 2, 4, 5, and 6 are eligible for personal property tax exemptions.

Property exempted from taxation reduces available revenue to political subdivisions. Due to the timing of the exemptions, political subdivisions do not experience a direct loss of revenue, but the property is not considered when subsequent tax rates are established. As a result, subdivisions may have to increase the tax rate on other property or reduce services, if the exempted amount is large enough. Reductions on school districts may be offset by an increase in rates, an increase in state aid, or a reduction in services.

See the Appendix for tables containing the full breakdown for counties and subdivisions for each year.

APPENDIX

The table below lists the LR 444 metrics that were not included in this report, along with a brief explanation of why they were not included.

Figure A.1. LR 444 Committee Metrics Not Included in this Report

Metric	Comment
Number of incentivized jobs that provided health benefits, and that provided other benefits.	There is no single source for employee benefit information.
Do incentivized businesses stay in Nebraska longer than others?	This would be challenging to determine because of business mergers and name changes.
Comparison of incentivized projects' average wages with county average wages.	Excluded when it became clear how difficult data matching would be.
Amount of Investment	The Revenue Department includes this information in their annual reports.
Education required for new jobs compared to education levels in distressed areas	There is no single source for this information.
Scope Q3: Is the Advantage Act meeting the goal of diversifying the state's economy and positioning Nebraska for the future by stimulating entrepreneurial, high tech, and renewable energy firms?	There are no definitions of entrepreneurial, high tech, and renewable energy firms. Additionally, the level of industry identification (through NAICS codes) was not sufficient to answer this question.
Number of patents applied for or received by incentivized companies.	We found that number of patents is not relevant for this evaluation.
Cost for businesses to apply for Advantage Act benefits.	There is no single source for this information.

The tables below shows the complete data on the increase or decrease in full-time workers (FTWs) for the 68 incentivized companies and the statewide industry sectors.

Figure A.2. Change in Number of FTWs, by Industry* (Incentivized Companies)

Industry Sector	Full-Time Employment 2008	Full-Time Employment 2014	Difference 2008-2014	Is Percent Difference Higher Than Statewide Industry?
31	1,349	1,659	310	Yes
32	3,759	4,040	281	Yes
33	5,884	6,339	455	Yes
42	339	338	-1	No
44	1055	1,481	426	Yes
45	*	*	*	Yes
48	*	*	*	No
49	*	*	*	Yes
51	*	*	*	Yes
52	10,075	9,437	-638	No
54	1,296	1,588	292	Yes
55	1,614	1,685	71	No
56	863	2,211	1,348	Yes
71	*	*	*	Yes
81	*	*	*	No
Incentivized Totals	27,232	30,200	2,968	11%

* These figures were not reported in order to protect taxpayer confidentiality.

Figure A.3. Change in Number of FTWs, by Industry (Nebraska Economy)

Industry Sector	Full-Time Employment 2008	Full-Time Employment 2014	Difference 2008-2014	Percent Difference 2008-2014
31	32,052	34,553	2,501	8%
32	20,726	20,879	153	1%
33	42,353	38,156	-4197	-10%
42	37,017	37,751	734	2%
44	42,651	45,052	2,401	6%
45	24,372	22,062	-2,310	-9%
48	28048	27780	-268	-1%
49	4043	4979	936	23%
51	20,358	16,300	-4,058	-20%
52	52,084	51,136	-948	-2%
54	33,519	36,110	2,591	8%
55	6,082	10,702	4,620	76%
56	29,764	33,741	3,977	13%
71	4,505	4,521	16	<-1%
81	15,456	15,616	160	1%
Statewide Private Sector Totals	56,1639*	582,648*	21,009	4%

* These totals will not equal the sum of the industries because we are only displaying selected industry sectors.

Figure A.4. Calculation of Minimum Cost per Full-time Equivalent (FTE) Range: If Investment and Job Creation are Equal Policy Goals

Cost Factor	Portion Included in Cost per FTE Calculation	Comment
Compensation tax credits	90% of total earned	Companies may not end up using all of the credits they earned. Amounts subject to recapture were removed from the calculation.
<i>plus</i>		
Investment tax credits	90% of the minimum amount earned	<p>Companies cannot receive <i>compensation credits</i> unless they meet the required levels of their investment for their tier, in addition to meeting the FTE requirement.</p> <p>Companies may not end up using all of the credits they earned. Amounts subject to recapture were removed from the calculation.</p>
<i>plus</i>		
Direct Sales Tax Refund and Property Tax Exemption	50% of total used	If FTE creation and investment are equal goals, it is fair to attribute 50% of these costs to each of them.
Result: Dollar amount of benefits a company earned by 12/31/2015, using the above factors.		
<i>then</i>		
The dollar amount of benefits is divided by 100% of the number of new FTEs for which the company received compensation tax credits.		
The dollar amount of benefits is also divided by 25% of the number of new FTEs for which the company received compensation tax credits.		

We followed the above steps to calculate the cost per FTE for each company for each year it received compensation credits. We then multiplied the yearly cost by six, which was the average number of years the companies in our population had maintained the FTEs.

Figure A.5. Calculation of Maximum Cost per Full-time Equivalent (FTE) Range: If Job Creation is the Goal and Investment is a Strategy to Support that Goal

Cost Factor	Include in Cost per FTE Calculation?	Comment
Compensation credits	90% of total earned	Companies may not end up using all of the credits they earned. Amounts subject to recapture were removed from the calculation.
Investment credits	90% of total earned	Companies may not end up using all of the credits they earned. Amounts subject to recapture were removed from the calculation.
Direct Sales Tax Refund and Property Tax Exemption	100% of total used	If FTE creation is the single goal, it is fair to attribute 100% of these costs to each of the FTE cost.
Result: Total dollar amount of benefits a company earned by 12/31/2015.		
<i>then</i>		
The dollar amount of benefits is divided by 100% of the number of new FTEs for which the company received compensation tax credits.		
The dollar amount of benefits is also divided by 25% of the number of new FTEs for which the company received compensation tax credits.		

We followed the above steps to calculate the cost per FTE for each company for each year it received compensation credits. We then multiplied the yearly cost by six, which was the average number of years the companies in our population had maintained the FTEs.

The tables below show a complete breakdown of annual property tax impacts.

Figure A.6. Estimated Advantage Act Property Tax Benefits by County, 2008-2014

County	2008	2009	2010	2011	2012	2013	2014	Total	Percent
Buffalo	0	0	0	0	0	0	\$91,559	\$91,559	0.2%
Douglas	\$18,969	\$77,001	\$29,325	\$136,319	\$335,637	\$368,894	\$1,349,688	\$2,315,832	4.0%
Lancaster	0	0	\$23,929	\$17,304	0	\$11,150	\$98,149	\$150,531	0.3%
Platte	0	0	0	\$8,391,286	\$7,858,049	\$6,973,505	\$5,851,221	\$29,074,061	50.5%
Saline	0	0	0	0	\$141,249	\$119,703	\$127,292	\$388,244	0.7%
Sarpy	\$65,468	\$84,163	\$99,490	\$2,534,903	\$3,324,073	\$2,970,918	\$2,866,824	\$11,945,839	20.8%
Washington	0	0	\$2,897,446	\$2,493,357	\$2,191,604	\$1,951,374	\$4,055,341	\$13,589,122	23.6%
Total	\$84,437	\$161,164	\$3,050,190	\$13,573,168	\$13,850,612	\$12,395,543	\$14,440,075	\$57,555,189	100%

Figure A.7. Estimated Reduction in Property Tax Collection by Governmental Subdivision, 2008-2011

Subdivision	2008		2009		2010		2011	
Townships	0.46%	\$388	0.45%	\$725	0.47%	\$14,336	0.47%	\$63,794
Misc. Districts	4.72%	\$985	4.54%	\$7,317	4.50%	\$137,259	4.47%	\$606,721
Fire Districts	1.15%	\$971	1.20%	\$1,934	1.20%	\$36,602	1.20%	\$162,878
ESUs	0.85%	\$718	0.84%	\$1,354	0.85%	\$25,927	0.84%	\$114,015
NRDs	1.95%	\$1,647	1.94%	\$3,127	1.85%	\$56,429	1.93%	\$261,962
Comm. College	4.01%	\$3,386	4.39%	\$7,075	4.47%	\$136,344	4.55%	\$617,579
County	16.25%	\$13,721	16.14%	\$26,012	16.46%	\$502,061	16.51%	\$2,240,930
City or Village	10.67%	\$9,009	10.82%	\$17,438	10.73%	\$327,285	10.73%	\$1,456,401
School Districts	59.94%	\$50,611	59.67%	\$96,167	59.47%	\$1,813,948	59.29%	\$8,047,531
Total*		\$84,437		\$161,148		\$3,050,190		\$13,571,811

*Totals may be different than above due to rounding errors.

Figure A.8. Estimated Reduction in Property Tax Collection by Governmental Subdivision, 2012-2014 and Cumulative (2008-2014)

Subdivision	2012		2013		2014		Total 2008-2014
Townships	0.47%	\$65,098	0.47%	\$58,259	0.46%	\$66,424	\$269,024
Misc. Districts	4.15%	\$574,800	4.26%	\$528,050	4.10%	\$592,043	\$2,447,175
Fire Districts	1.24%	\$171,748	1.27%	\$157,423	1.34%	\$193,497	\$725,053
ESUs	0.84%	\$116,345	0.82%	\$101,643	0.86%	\$124,185	\$484,187
NRDs	1.86%	\$257,621	1.93%	\$239,234	1.94%	\$280,137	\$1,100,157
Comm. College	4.65%	\$644,053	4.99%	\$618,538	5.20%	\$750,884	\$2,777,859
County	16.76%	\$2,321,362	16.60%	\$2,057,660	16.21%	\$2,340,736	\$9,502,482
City or Village	10.54%	\$1,459,854	10.12%	\$1,254,429	9.87%	\$1,425,235	\$5,949,651
School Districts	59.49%	\$8,239,729	59.54%	\$7,380,306	60.02%	\$8,666,933	\$34,295,225
Total*		\$13,850,612		\$12,395,543		\$14,440,075	\$57,553,816

*Totals may be different than above due to rounding errors.

III. Agency Response and Fiscal Analyst's Opinion

AGENCY RESPONSE AND FISCAL OPINION

Agency Response and Legislative Auditor's Summary of Agency Response

This section contains the Department of Revenue's written response to the draft audit report. There are additional comments from the Department included in the body of the report, which were provided during the Audit Office's discussions with Revenue staff about the various metrics. The Legislative Auditor's summary of Revenue's response is included in this section as well.

Fiscal Analyst Opinion

By law, the Legislative Fiscal Analyst must provide an opinion about whether the draft recommendations the Audit Office provides to the Performance Audit Committee can be implemented within the Department's existing appropriation. For this audit, the Fiscal Analyst's letter refers to specific draft recommendations, some of which were combined in the final report. Following is a list of each of those recommendations and where they appear in the Committee's recommendations.

Draft Recommendation 1, suggesting an interim study to address data limitations identified in the audit, became Recommendation 2 in the Committee recommendations.

Draft Recommendation 9, relating to attracting new businesses to the state, became Recommendation 6 in the Committee recommendations.

Draft Recommendation 12 suggested that future performance audits would be improved if the Legislature created definitions of the key terms for scope question 3 (entrepreneurial, high tech, and renewable energy firms). In the Committee recommendations, this specific suggestion is incorporated in Recommendation 5, which notes the need for definitions and benchmarks generally.

Draft Recommendation 16, suggesting that if the Legislature is concerned about companies participating in multiple programs, it could consider restrictions, became Recommendation 9.

Draft Recommendation 17 suggested that future performance audits would be improved if the Department of Economic Development electronically tracked participation in the programs it administers. In the Committee recommendations, this suggestion is not mentioned specifically but would be considered as part of the interim study discussed in Recommendation 2.



Pete Ricketts
Governor

STATE OF NEBRASKA

DEPARTMENT OF REVENUE
Tony Fulton, Tax Commissioner
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November 9, 2016

Sen. Dan Watermeier
State Capitol, Room #2000
PO Box 94604
Lincoln, NE 68509

Senator Watermeier and members of the Performance Audit Committee,

The Department of Revenue has had the privilege for the past six months of observing first-hand the hard work and professionalism of the Legislative Audit staff. They were tasked with a very large, complicated, and difficult project involving the review and analysis of massive amounts of data from two agencies amidst a very tight timeline. We appreciate very much the time and effort put forth to complete this report and the patience and willingness of the Audit staff to work through the multitude of issues that arose throughout the process.

Please understand that the comments made by the Department in this letter and within the report itself, at least in part, are a reflection of the difficulty of the task assigned and the data gaps that exist rather than the effort and professionalism of the Audit staff.

As stated in the first sentence of Section II of the report, the Nebraska Advantage Act is complex. During the application process, much of the work done by the Department, and the applicants as well, is focused on defining the project by specific location and qualified business activity. In the modern world, successful businesses often conduct many activities throughout the enterprise in whatever manner works most efficiently for them. The requirements in the Nebraska Advantage Act to define these things ahead of time and separate them out for accounting and personnel purposes throughout the entitlement period is often inconsistent with the efficient use of company resources.

In addition, the data required to be collected by the Department of Revenue for purposes of establishing that a company has met the required employment and investment levels and to calculate the credits earned cannot be easily matched with data from other sources, such as the Department of Labor. The data required to be collected by the Department of Revenue also does not always mesh well with the metrics established by LR 444 (2014). It is worth noting as well that a large number of participating companies find it necessary to establish new methods of accounting so that the information necessary to document qualification and to obtain benefits may be collected and reported. The complexity of the Nebraska Advantage Act contributes greatly to the delays in signing incentive agreements, performing qualification audits, documenting and

Sen. Dan Watermeier

November 9, 2016

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establishing credits, and the overall cost of administering the program. These complexities also cause many of the difficulties faced by the Performance Audit Committee Staff in addressing the metrics analyzed in the report.

We respectfully request that any recommendations from this Committee to amend the Nebraska Advantage Act include recommendations that would simplify applying for, qualifying for, and administering the benefits granted under the Act.

While the Department's substantive comments have been submitted to the Audit staff for inclusion within the text of the report, there are two additional matters regarding the report that warrant some discussion here. First, we are obligated to point out that in the process of finalizing the report there was a minor breach that temporarily released some information that was not properly aggregated to protect the confidential information of taxpayers. As you know, the Department of Revenue takes these issues seriously and we appreciate that your staff quickly and appropriately handled the issue. We simply ask that more care be taken in future Legislative Audit reports involving taxpayer information to ensure that this does not re-occur.

Second, the Legislative Performance Audit Committee Staff has included within its report the Department's substantive responses to individual metrics. The Department did not have the chance to adequately review the full final report prior to finalizing those comments, or issuing this general response, as required by Neb. Rev. Stat. § 50-1210(3). While the Department did receive a draft twenty days prior to the date this response was due, numerous significant and substantive changes were made to the report after that date. A second draft was delivered to the Department on November 1 which is less than 20 days ago. Finally, within this past week, Metric 9, the cost per job metric, was revised and expanded to include new calculations and the Department has not had the chance to sufficiently review or evaluate the final methodology or results for that revised metric.

Respectfully Submitted,



Tony Fulton
Tax Commissioner

Legislative Auditor's Summary of Agency Response

This summary meets the requirement of Neb. Rev. Stat. § 50-1210 that the Legislative Auditor briefly summarize the agency's response to the draft audit report and describe any significant disagreements the agency has with the report or recommendations.

Tax Commissioner Fulton's written response to the draft audit report makes three key points.

First, the Commissioner articulates how the complexities of the Advantage Act may cause difficulties for both companies that wish to participate in the program and the Department of Revenue as it administers the program. He asks that the Performance Audit Committee include recommendations that would simply "applying for, qualifying for, and administering the benefits granted under the Act." The Audit Office agrees that the program is complex and that the complexity added challenges to the evaluation process. However, whether the Act is "too complex" seems to us to be a policy question, which is outside of our purview.

Second, the Commissioner notes that the Audit Office had a "minor breach" that temporarily released some program data that was not properly aggregated and requests that the Office take additional steps to ensure that this does not happen again. The Audit Office will take such steps. Specifically, we will explore whether the Performance Audit Act should be amended to permit the Office to provide the draft report to the department prior to providing it to the Audit Committee. Currently, by law the draft must be provided to the agency and the committee at the same time. The Office would also note that the disclosure was to recipients of the draft audit report, who must maintain confidentiality of everything in that report.

Finally, the Commissioner notes that Office made substantive changes to the draft report after the department's review of it, and expresses concern that the department did not have adequate time to review the changes. The Office acknowledges that due to the complexity of the audit and the shortened timeframe for completing it—which the Commissioner acknowledged—we were unable to provide a more polished draft to the department. We worked closely with Department's tax incentives division staff, who have reviewed not only the information that will appear in the report but much of the supporting data as well. (However, they did not verify all of the numbers in the report.) We have also committed to the staff that we will give them an opportunity to review and comment on final changes including those to Metric 9, which is the cost per job metric.

The Audit Office also notes the invaluable assistance provided by department staff in this challenging audit. It is not an exaggeration to say that for some of the metrics, we could not have done the analysis we needed to do without that help.

State of Nebraska

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November 4, 2016

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Ombudsman

Martha Carter
Program Evaluation
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Lincoln, NE 68509

Dear Martha:

Fiscal staff have reviewed the draft report "Nebraska Advantage Act Performance on Selected Metrics" and offer the following cost consequences we have identified as required by the law governing your performance audit.

Generally for most recommendations, we would indicate no likely fiscal impact with the following exceptions and conditions:

Recommendation #1 – There is some potential for additional costs to the respective departments for programming and development costs. The magnitude, if any, of such costs cannot be determined nor can the expectation of absorbing the costs in future budgets.

Recommendation #9 – Any fiscal impact would depend on optional definition chosen and how it alters current baseline activity. Future costs cannot be determined, nor can prospects for absorbing such costs.

Recommendation #12 – Future impact could be an increase or decrease depending on whether definitions effectively narrow or broaden the universe of eligible companies.

Recommendation #16 – The imposition of restrictions or caps intuitively should reduce costs from what they otherwise would have been. Dilution of savings, however, could occur if limits altered a firm's timing of applying for a program or if limits allowed for deferral of accrued benefits to future years in order to comply with caps.

Recommendation #17 – There could be additional programming costs to the department. No determination as to how much of a cost or the degree it may be absorbed is possible.

Letter to Martha Carter
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If you have any questions please do not hesitate to contact me.

Sincerely,

COPY

Michael Calvert
Legislative Fiscal Analyst

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