Nebraska Advantage Rural Development Act: Performance on Selected Metrics

Performance Audit Committee
Nebraska Legislature

May 2023

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I. Audit Summary & Committee Recommendations

Audit Summary and Committee Recommendations

This section contains a brief summary of the use of Nebraska Advantage Rural Development program, the audit findings and results, and the Legislative Performance Audit Committee's recommendations.

Nebraska Advantage Rural Development Program Participation

The Nebraska Advantage Rural Development Act (Act), passed in 1986 and substantially revised in 2004, provides tax credits for increased investment and job creation in the state. For economic activity between 2004 and 2022, participating taxpayers earned about $12.5 million and had used about $11.6 million of the credits through the end of the 2022 tax year.

Audit Finding

For eight of the nine metrics used to assess the Rural Development program, there were no findings because the Act does not contain standards to compare the program's activity against and assess whether the program's results are meeting policymakers' expectations.

> **Finding:** The vast majority of Rural Development program activity occurred in rural areas, as defined in the Legislative Performance Audit Act. Additionally, most of the economic activity occurred in the state's smallest counties, defined as those with less than 15,000 residents.

Recommendation: None

Audit Results

Economic Activity in Rural Areas: How has the program performed in rural areas as compared to urban areas? (pp. 11-17)

Results: The vast majority of Rural Development program activity—which includes project locations, credits, investments, increases in full-time equivalents, and average annual employment—occurred in rural areas, as defined in the Legislative Performance Audit Act. Of the 113 projects, only 7 (6%) were located in urban areas—four Level 1 and three Livestock Modernization projects.

The majority of program activity occurred in counties with less than 15,000 residents. When program participation is broken down by industry, most economic activity in rural areas was in the Agriculture and Manufacturing industry sectors, while urban areas had the most activity in the Management of Companies & Enterprises and Manufacturing sectors.

Discussion: Specifically, 106 (94%) of the 113 projects were located in rural areas, with 70 projects in counties with less than 15,000 residents. For the 106 projects in rural areas, program participants:

- Earned $11.7 million tax credits (94% of total program credits)
- Invested $39.2 million (89% of total program investment)
- Added 351 FTEs (96% of FTEs added)
- Increased the average annual employment by 319 employees (99.7% of the increase in employees)

Economic Activity in Distressed Areas: How has the program performed in economically distressed areas? (pp. 18-19)

Results: Most program activity occurred in areas that did not meet the statutory definition of distressed. The five projects located in distressed areas of the state earned $1.5 million in credits, invested $54.7 million, and increased employment based on two measurements

Wages: How did wages at incentivized projects compare to state and county average wages? (pp. 20-22)

Results: For the 37 projects reviewed for this metric, the Audit Office found a wide range of average wages for employees. The highest average wage was estimated at nearly $60,000 and the lowest average wage was estimated at under $20,000 per year. Wages for 14 projects were higher than the statewide average for the comparable year. We also identified 24 projects that had average wages higher than their county average wage in the comparable year.

Cost Per Job: Using program benefits, what was the cost to create each job? (pp. 23-24)

Results: Two different cost per job estimates were generated for the program, both using full-time equivalents for the employment numbers. The lowest cost per job estimate, $2,053, includes only program employment credits. The highest estimate, $34,307, includes both investment and employment credits earned through the program.

Discussion: We note that some amount of economic activity associated with the program would have happened without the incentive. A but-for analysis is an attempt to estimate how much activity was due to the program, and how much would have happened without it. To the extent that jobs would have been created anyway, the true cost per job would be higher than estimated here.

New to Nebraska & Sustained Companies: How many participants were new to Nebraska? How many program participants were still in Nebraska five years after receiving tax credits? (pp. 25-28)

Results: We identified 16 projects by companies that met the statutory definition of new to Nebraska and 49 projects whose companies were still operational in Nebraska five years after they received credits. We cannot determine whether the program was the deciding factor for any or all of these companies being created, moving into the state, or remaining operational.

Additional Public Funding: Did program participants receive other state tax incentives? (pp. 29-30)

> **Results:** Of the 109 participants with projects that earned credit under the Rural Development program, we identified 10 that received a combined $12.2 million in benefits from other Nebraska tax incentive programs.

Administrative Cost: What is the cost to administer and promote all tax incentive programs? (p. 31)

> **Result:** For 2016 to 2021, the Department of Revenue spent $9.6 million to administer all tax incentive programs. For 2019 through 2021, there were no costs to the Department of Economic Development related to the Rural Development program.

Fiscal Protections: What are the fiscal protections in the Act? (p. 32-33)

> **Result:** Because the Rural Development program contains several important fiscal protections recommended by the Pew Charitable Trusts, including performance-based incentives, recapture provisions, and a yearly cap, it is at low risk for exceeding expected costs.

II. Legislative Audit Office Report

Legislative Audit Office Report

Nebraska Advantage Rural Development Act: Performance on Selected Metrics

May 2023

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INTRODUCTION

The Legislative Audit Office is required to review each business tax incentive program at least once every five years. In 2017, the Performance Audit Committee released the first audit report on the Nebraska Advantage Rural Development Act. This report contains the results of the Audit Office's second audit of the program.

Measuring Effectiveness

As the Audit Office (Office) has noted in previous reports, it is difficult to determine whether Nebraska's tax incentive programs are effective because there are not clear goals and specific measures of success in the programs' statutes. To address this issue, the Tax Incentive Evaluation Committee, created by the Performance Audit Committee's LR 444 (2014), identified metrics for tax incentive performance audits. LB 538 (2015) placed many of these metrics in the Legislative Performance Audit Act and required the Office to perform ongoing tax incentive audits using the metrics.

During the audit planning process, the Audit Office determines which metrics should be used based on the program being audited and data available. The Office identified the following metrics to assess the Nebraska Advantage Rural Development Act.

Nebraska Advantage Rural Development Act Audit Metrics

Source	Description
SECTION I	
Audit Act	Earned & Used Credits
SECTION II	
Audit Act	Economic Activity in Rural Areas
Audit Act	Credits & Investment
Audit Act	Jobs
Rural Development Act	Smallest Counties
Audit Act	Industries
LR 444	Economic Activity in Distressed Areas
LR 444	Wages
Audit Act	Cost Per Job
Audit Act	New to Nebraska
LR 444	Sustained Companies
LR 444	Additional Public Funding
LR 444	Administrative Cost
Audit Act	Fiscal Protections

Report Organization and Acknowledgements

Section I describes the Nebraska Advantage Rural Development program and participation. Section II contains our analysis of the selected metrics.

The Legislative Audit Office appreciates the assistance of Mary Hugo, Kate Knapp, and Mike Walsh at the Department of Revenue and Scott Hunzeker at the Department of Labor.

Auditing Standards Compliance Statement

We conducted this performance audit in accordance with generally accepted government auditing standards, with two statutory exceptions regarding continuing education hours and peer review frequency.[1] As required by auditing standards, we assessed the significance of noncompliance on the objectives for this audit and determined there was no impact. The exceptions do not change the standards requiring that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. 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.

[1] Neb. Rev. Stat. § 50-1205.01.

SECTION I: Nebraska Advantage Rural Development Program

The Nebraska Advantage Rural Development program, created in 1986 and substantially revised in 2004, provides tax benefits to individuals or companies that increase economic activities intended to benefit rural Nebraska. The program is administered by the Nebraska Department of Revenue and is scheduled to sunset on December 31, 2027. In this section, we describe how the program works and program participation through 2022.

Nebraska Advantage Rural Development Program

The Nebraska Advantage Rural Development (Rural Development) program consists of three application levels, or tiers—Level 1, Level 2, and Livestock Modernization—which have different requirements and benefits for participants. Level 1 and Level 2 projects require financial investment and increased employment in a qualified business (see sidebar for business activities included in this definition). These projects must be located in authorized geographic areas (Figure 1.1).

Level 1 participants must, at a minimum, invest $125,000 and create two new full-time equivalent (FTE) employee positions, while Level 2 requires minimums of $250,000 in investment and the creation of five new FTEs. The Livestock Modernization tier is available to individuals engaged in livestock production and requires only financial investment in either livestock modernization/expansion or livestock production.[2] This tier requires a $50,000 investment but has no employment or location requirements.

Level 1 & 2 Qualified Business

Any business engaged in:

- Storage, warehousing, distribution, transportation, or sale of tangible personal property
- Livestock production
- Conducting research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes
- Selected types of data processing, telecommunication, insurance, or financial services
- Assembly, fabrication, manufacture, or processing of tangible personal property
- Administrative management of any activities, including headquarter facilities relating to such activities or
- Any combination of the above activities.

[2] The program defines livestock broadly to include cattle, horses, hogs, sheep and other common farm animals, as well as those subject to regulation by either the Game and Parks Commission or the Department of Agriculture. Livestock modernization is defined as construction, improvement, or acquisition of buildings, facilities, or equipment for livestock housing, confinement, feeding, production, and waste management. Livestock production is defined as the active use, management, and operation of real and personal property for various commercial activities.

Figure 1.1. Level 1 and Level 2 projects must meet investment, employment, and location requirements, while Livestock Modernization projects only require new investment.

Tier	Investment Minimum	Employment Minimum	Eligible Locations
Level 1	$125,000	2 new FTEs	Counties of less than 15,000 residents, any village, or certain census tracts[3]
Level 2	$250,000	5 new FTEs	Counties of less than 25,000 residents or in any second class city
Livestock Modernization	$50,000	No requirement	No restriction

Source: Audit Office compilation of information from Neb. Rev. Stat. § 77-27,188.

Participants who meet program requirements may use earned credits to obtain a refund of state sales taxes paid or reduce income tax liability. Credits can be used by a taxpayer or distributed to shareholders.[4] If used by a taxpayer, the credits are refundable, which means the participant may receive payment for the full value of credits earned even if the value of the credits is more than the sales tax paid or income tax owed.[5] Distributed credits are non-refundable and can only be used to the extent of the income tax liability for the year.

Program Benefits

	Level 1 & 2	Livestock Modernization
Investment Credit?	$2,750 credit for each $50K of new investment	10% of new investment
Employment Credit?	$3K credit for each new FTE	No
Limit on credits?	$1M program annual cap	Max of $500K per project

Level 1 and 2 projects receive a $2,750 credit for each $50,000 of increased investment and a $3,000 credit for each new FTE created (see sidebar). Livestock Modernization projects receive a credit of 10% of the total qualified investment.[6] In 2022, the limit on project credits for individual Livestock Modernization projects was raised from $150,000 to $500,000.

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[3] The tracts are "... any area within the corporate limits of a city of the metropolitan class consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts." Neb. Rev. Stat. § 77-27,188(1)(a)(i).

[4] Shareholders can only apply the distributed credits to their income tax liability for the year the credits were earned. Participants in this program are also subject to a three-year statute of limitations. This means that participants have three years *beyond* the year in which the credits were earned to claim them on their tax return. The statute of limitations applies broadly and is not just applicable to this program. In some instances, it is possible for the participant to claim credits more than three years beyond the year they were earned, but that requires filing a form with Revenue requesting an extension.

[5] The term "sales tax" refers to both the state's sales tax and use tax. According to the Nebraska Department of Revenue, the use tax applies when the sales tax has not been paid on a transaction that is subject to sales tax.

[6] Qualified investment is defined as "livestock production." Neb. Rev. Stat. § 77-27,188(2)(b).

Benefits awarded annually under the Rural Development program are limited: currently, Level 1 and 2 projects are capped at $1 million and Livestock Modernization projects are capped at $10 million. At the time of publication of this report, a bill to increase the Level 1 and 2 caps is under consideration by the Legislature.[7]

Application Process

To participate in the Rural Development program, interested parties must apply to the Department of Revenue (Revenue), which reviews applications as they are received and determines eligibility based on program requirements.[8] As stated previously, applications for Livestock Modernization projects must plan to invest at least $50,000, while Level 1 and Level 2 projects must meet minimum required new investment and FTE growth for activities located in authorized geographic areas.

Applicants can also propose investment and employment increases *greater* than the statutory minimums. Under the program, for signed agreements that are above the program's base requirements, participants must meet at least 75% of the targets stated in the agreement—investment and employment targets for Level 1 and 2 projects, investment only for Livestock Modernization projects—in order to earn credits. For Level 1 and 2 projects, if the 75% threshold is met for only one of the two program requirements (investment or employment), the participant only earns credits for the requirement that met the threshold. This threshold discourages participants from applying for more benefits than they intend to use, which could harm other potential applicants as program benefits—which are capped—are approved on a first come, first served basis.

Once an application is approved, Revenue and the applicant enter into an agreement detailing the expected increase in investment, employment (when applicable), the potential benefits awarded, and the penalties for failure to meet the expected increases. By law, Level 1 and Level 2 participants have two years to attain the investment and employment increases stated in the agreement in order to receive benefits.[9] While there is no statutory time limit for Livestock Modernization participants to attain the required investment, Revenue uses the same two-year period.

A participant may request an audit by Revenue once it believes it has met the requirements of its agreement. Once the audit is completed, these **earned** credits can be claimed by the participant when the appropriate tax return is filed, typically within a year of the credits being earned.[10] When the tax return is processed by Revenue, the participant has then **used** their program credits.

Tax Credit Terms

Earned: Credits issued to a participant after Revenue audits their project

Used: Earned credits claimed and processed on a participant's tax return

[7] LB 809 (2023) would increase the cap for Level 1 and 2 projects to $10 million.
[8] According to Revenue, benefits are prorated if more than one application is received on the day when the yearly funding maximum is met.
[9] The two years include the year of application and the year immediately following, based on the participant's taxable years.
[10] There is no language in the Act requiring credits be used in the year in which they were earned, however, there is no specific statutory authority to carry them forward.

For Level 1 and Level 2 project agreements, projects must maintain the statutory minimum increases for at least three years after the year the credit was first earned. If the participant fails to maintain the required increase in investment or employment, all credits they have used must be repaid to the state—referred to as recapture—and any unused credits are forfeited. Livestock Modernization projects are not required to maintain investment so there is no repayment provision.

Program Participation

For this report, the Audit Office reviewed Rural Development program projects that earned credits from 2004 to 2022. We identified 108 unique taxpayers that earned credits during this time. Of these taxpayers, 72 were incorporated and 36 participated as individuals. Some taxpayers participated more than once. There were a total of 113 projects. The 113 projects included in this analysis earned a total of $12.5 million and used about $11.6 million program credits (Figure 1.2).

Figure 1.2. By 2022, program participants had used about $11.6 million (93%) of the $12.5 million in credits they had earned from 113 projects.

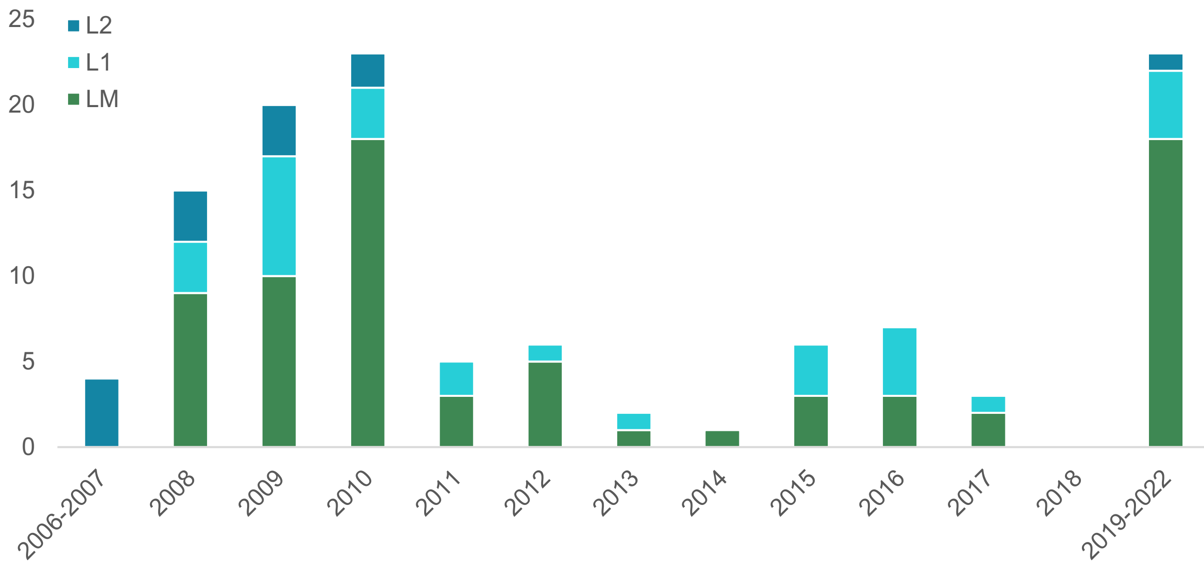
Program Level	Number of Projects	Earned Credits	Used Credits
Level 1	28 (25%)	$7.1 M (57%)	$6.6 M (57%)
Level 2	13 (12%)	$2.1 (17%)	$2.1 M (18%)
Livestock Modernization	72 (64%)	$3.3 M (26%)	$2.9 M (25%)
Total	**113***	**$12.5 M**	**$11.6 M****

Source: Audit Office compilation of Department of Revenue data.
*Percentages do not equal 100% due to rounding.
**This number does not reflect the less than 1% of benefits that have been recaptured for Level 1 and 2 projects.

In most years, there were more Livestock Modernization (LM) projects than Level 1 and 2 projects (Figure 1.3). However, Level 1 (L1) projects earned the most credits (Figure 1.4). For simplicity, this report refers to earned credits unless otherwise noted.[11]

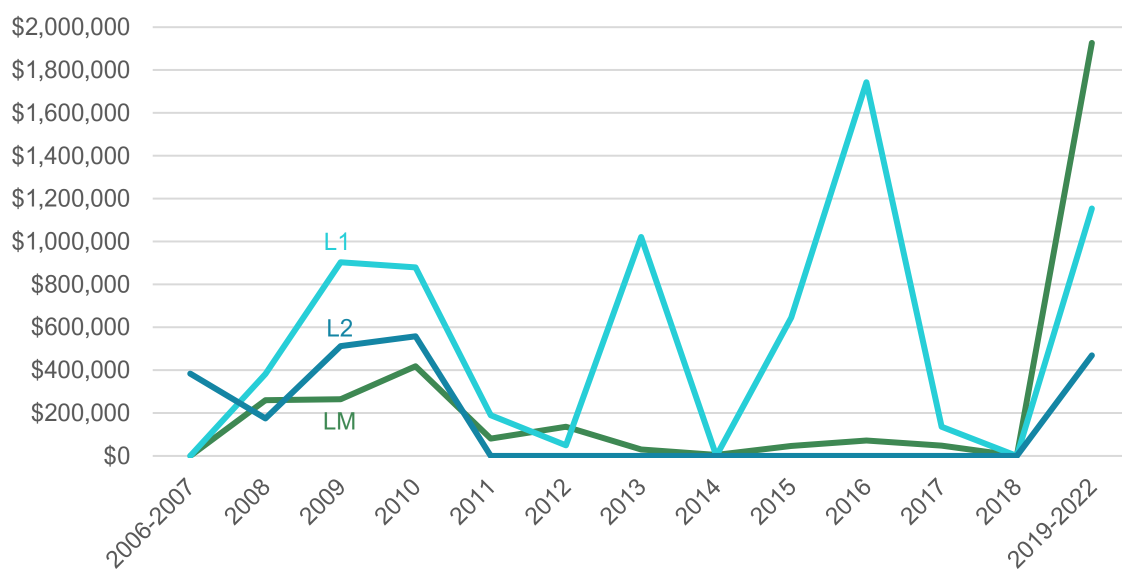
[11] The Audit Office's determination to use earned credits was based on the variable timing of credit use and recapture. Because this report uses earned credits, some numbers may not match the figures that the Department of Revenue publishes in their annual tax incentive reports, as Revenue typically reports credits used minus recapture.

Figure 1.3. Livestock Modernization projects made up the majority of projects in most years reviewed.



Source: Audit Office compilation of Department of Revenue data.
Note: Some years were combined to maintain taxpayer confidentiality.

Figure 1.4. Level 1 projects earned the most credits in most years reviewed.



Source: Audit Office compilation of Department of Revenue data.
Note: Some years were combined to maintain taxpayer confidentiality.

Program Utilization

The Audit Office also looked at authorized benefits by tier from 2016 to 2022 in relation to program caps.[12] Authorized benefits are the total amount of benefits set aside for individual program participants at the time their agreements are approved. Level 1 and 2 projects are capped at $1 million and Livestock Modernization projects were capped at $500,000 from 2016 to 2021. In 2022, this cap was raised to $10 million.

From 2016 to 2018, the amount of authorized benefits was capped for all tiers (Figure 1.5). Through 2018, all tiers were authorized up to their cap. In 2019 and 2020, Livestock Modernization authorized benefits met the tier's cap, before dropping to 85% in 2021 and 51% in 2022. Authorized benefits for Level 1 and 2 projects were at 76% of the tiers' cap in 2019 and only 24% of the cap in 2020; benefits again met the cap for Level 1 and 2 projects for 2021 and 2022.

Figure 1.5. The Rural Development program generally met the cap on authorized benefits except for two distinct two-year periods.

	Level 1 & Level 2			Livestock Modernization		
	Annual Cap	Authorized Benefits	Percent of Cap	Annual Cap	Authorized Benefits	Percent of Cap
2016	$1 M	$1 M	100%	$500,000	$500,000	100%
2017	$1 M	$1 M	100%	$750,000	$750,000	100%
2018	$1 M	$1 M	100%	$750,000	$750,000	100%
2019	$1 M	**$762,250**	**76%**	$1 M	$1 M	100%
2020	$1 M	**$242,500**	**24%**	$1 M	$1 M	100%
2021	$1 M	$1 M	100%	$1 M	**$853,500**	**85%**
2022	$1 M	$1 M	100%	$10 M	**$5.1 M**	**51%**

Source: Audit Office compilation of data from Department of Revenue Annual Reports and Neb. Rev. Stat. § 77-27,187.02.

Data Issues Raised in 2017 Audit Resolved

During the 2017 Rural Development program audit, the Audit Office encountered several problems with program data. The report included a finding that program data was "... not adequately updated or reviewed for completeness and consistency ..."[13] To address this, Revenue implemented an updated, more thorough and complete participant tracking system and program database, as well as more complete, digitized, and accessible audit file records. While conducting the current audit, the Office was able to review and analyze program data without issue.

[12] See the Appendix for program annual caps and requested benefits from 2004 to 2015.
[13] Nebraska Legislative Audit Office, *Nebraska Advantage Rural Development Act Performance on Selected Metrics*, November 2017.

SECTION II: Analysis of Metrics

The Performance Audit Committee asked the Legislative Audit Office to answer four broad questions regarding the Nebraska Advantage Rural Development Act, utilizing the metrics listed below each question.

1. Is the Nebraska Advantage Rural Development Act meeting the goal of revitalizing rural and other distressed areas of the state?
    - **Economic Activity in Rural Areas**: How has the program performed in rural areas as compared to urban areas?
        - **Credits and Investment**: How many program credits went to rural areas? How much new investment was generated through the program in rural areas?
        - **Jobs**: How many new FTEs and new employees were created by program participants in rural areas? How many new FTEs were created compared to company estimates at the time of application?
        - **Smallest Counties**: To what extent is the program being utilized in the least populated counties?
        - **Industries:** What industries are receiving credit in rural areas?
    - **Distressed Areas**: How has the program performed in distressed areas?
        - **Credits and Investment**: How many program credits went to distressed areas? How much new investment was generated through the program in distressed areas?
        - **Jobs**: How many new FTE jobs were created by program participants in distressed areas?
2. Is the 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?
    - **Wages**: How did wages at incentivized projects compare to state and county averages?
    - **Cost Per Job**: Using program benefits, what was the cost to create each job?
    - **New to Nebraska & Sustained Companies**: How many program participants were new to Nebraska? How many program participants maintained a presence in the state after receiving tax credits?
3. What are the economic and fiscal impacts of the Act?
    - **Additional Public Funding**: Did program participants receive other state tax incentives?
    - **Administrative Cost**: What is the cost to administer and promote all tax incentive programs?
4. Are adequate protections in place to ensure the fiscal impact of the Act does not increase substantially beyond the state's expectations?
    - **Fiscal Protections**: What are the fiscal protections in the Act?

The "But-for" Question

A question common to all tax incentive programs is: did the tax incentive program cause the taxpayer to undertake a project or would the project have happened even without the credit? This is usually called the "but-for" question. In other words, would the project or activity not have occurred but-for the incentive?

It is widely accepted that tax incentives cannot be assumed to have caused all the economic activity associated with these programs.[14] So, the question is not "would some of the activity have happened anyway?" but "how *much* of the activity would have happened anyway?"

In previous tax incentive audits, the Audit Office has used 12-25% to provide a range of estimates for how much of the activity associated with a tax incentive might have been caused by the program.[15] For the Rural Development program, however, we chose not to calculate such estimates because those ranges were developed using research on less rural-focused tax incentives.

It is very likely that some of the projects we reviewed would have occurred without the incentive, which is essential to remember when discussing this program.

[14] This is acknowledged by the Nebraska Department of Revenue regarding economic modeling for the Nebraska Advantage Act: "It is important to note that some of these new jobs would be created regardless of the Act's tax credits due to growth in the company. Thus, the exact number of jobs that would be created without the existence of the Act is unknown." Nebraska Department of Revenue, *Nebraska Tax Incentives Annual Report 2022* (repeated in each annual report). Timothy J. Bartik, W.E. Upjohn Institute for Employment Research, "*But For" Percentages for Economic Development Incentives: What Percentage Estimates are Plausible Based on the Research Literature*? July 1, 2018. Center for Regional Economic Competitiveness and Smart Incentives, *Estimating the Influence of Incentives on Investment Decisions: A New Approach to the But-For Question*, November 2020.
[15] This range comes from Economist Timothy Bartik's research in this area. Bartik, "*But For" Percentages for Economic Development Incentives: What Percentage Estimates are Plausible Based on the Research Literature*? p. 2; Bartik, *Making Sense of Incentives: Taming Business Incentives to Promote Prosperity*, 2019, p. 46.

Metric 1: Economic Activity in Rural Areas

How has the program performed in rural areas as compared to urban areas?

Results

The vast majority of Rural Development program activity—which includes project locations, credits, investment, and increases in full-time equivalents and average annual employment—occurred in rural areas, as defined in the Legislative Performance Audit Act (Figure 2.1). Of 113 projects, only seven (6%) were located in urban areas—four Level 1 and three Livestock Modernization projects.

Figure 2.1. Most activity associated with the Rural Development program occurred in rural areas.

	Project Location	Earned Credits	Investment	Increase in Full-time Equivalents	Average Annual Employment Increase
Rural	106 (94%)	$11.7 M (94%)	$322.1 M (89%)	351 (96%)	319 (99.7%)
Urban*	7 (6%)	$787,099 (6%)	$39.2 M (11%)	13 (4%)	1 (.3%)
Total	**113**	**$12.5 M**	**$361.3 M**	**364**	**320**

Source: Audit Office analysis of Department of Revenue and Department of Labor information.
*Not all projects are required to be in rural areas.

Looking at counties, the majority of program activity occurred in counties with less than 15,000 residents. When program participation is broken down by industry, most economic activity in rural areas was in the Agriculture and Manufacturing industry sectors, while urban areas had the most activity in the Management of Companies & Enterprises and Manufacturing sectors.

Finding: The vast majority of Rural Development program activity occurred in rural areas, as defined in the Legislative Performance Audit Act. Additionally, most of the economic activity occurred in the state's smallest counties, defined as those with less than 15,000 residents.

Discussion

Despite the program's name, the Rural Development tax incentive does not define rural areas and instead has different location requirements for each program tier, some of which include urban areas. To qualify for Level 1, a project can be located in a village, a county with less than 15,000, or certain census tracts in Omaha. Level 2 projects can be located in second class cities or counties of less than 25,000. Livestock Modernization projects can be located anywhere in the state.

The Audit Office, however, is required to use the standard definition of rural areas from the Legislative Performance Audit Act (see sidebar). Under this definition, all of Nebraska is rural, except 16 cities: Bellevue, Columbus, Fremont, Gering, Grand Island, Hastings, Kearney, LaVista, Lincoln, Norfolk, North Platte, Omaha, Papillion, Plattsmouth, Ralston, and Scottsbluff. All results in this report that are labeled “rural” adhere to this definition.

Rural Area Definition

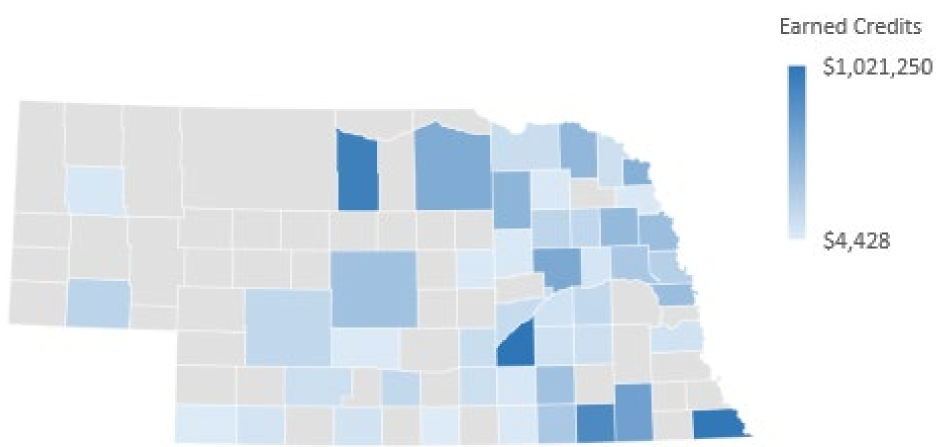
Any village, second class city, or county with fewer than 25,000 residents

This metric contains several different measures of program activity in rural and urban areas, including the amount of credits earned, new investment, increase in jobs using two measures, program activities in the state’s least populated counties, and the industries of program participants.

Credits and Investment

Almost 94% of Rural Development program credits were earned by projects in rural areas. Of the over $12 million in total credits, less than $1 million was earned in urban areas, by four Level 1 and three Livestock Modernization projects. Participants in the program earned credits in 51 of Nebraska’s 93 counties. Projects that earned credits were spread throughout the state, with a higher concentration in central and eastern counties (Figure 2.2). Hamilton and Richardson counties saw the highest amounts of earned credits.

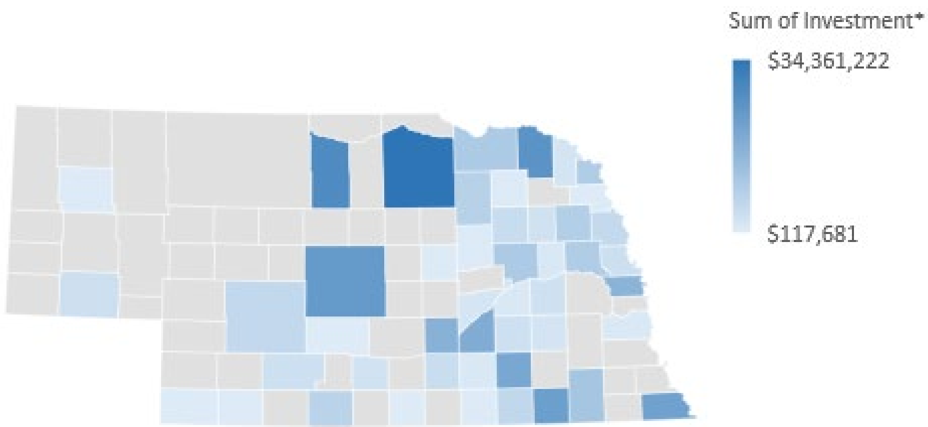
Figure 2.2. Earned credits were largely concentrated in the central and eastern parts of the state.



Source: Audit Office analysis of Department of Revenue data.
Note: Two projects had multiple counties listed in their agreement. Those projects were not included in this map and represent less than $60,000 credits combined.

As stated previously, although some urban areas qualify for Level 2 projects and all areas of the state qualify for Livestock Modernization, the vast majority of investment tied to the program occurred in rural areas. Participants in the Rural Development program earned credits for investment in 51 of Nebraska's 93 counties (Figure 2.3). While the qualified investment was spread throughout the central and eastern parts of the state, the counties with the highest investment were Holt and Brown in north-central Nebraska.

Figure 2.3. Qualified investment was spread throughout Nebraska, with the highest concentration in the eastern half of the state.



Source: Audit Office analysis of Department of Revenue information.
Note: Two projects had multiple counties listed in their agreement. Those projects were not included in this map and represent less than $600,000 in investment combined.

Jobs

For this analysis, the Audit Office used two different measures of employment. The first measurement is a Full-time Equivalent (FTE), which is how employment increases are measured by the Rural Development program.

> **Employment Terms**
>
> **Full-time Equivalent (FTE)**
> Equal to 2,080 hours of increased work in a year
>
> **Average Annual Employment Increase (AAEI)**
> Change in average annual employees from base year to the 2nd year of agreement

An FTE does not necessarily equal a newly hired employee or newly created position. Instead, one FTE represents the number of hours equal to one full-time job. In other words, an increase of 2,080 hours of employment in a year equals one FTE. This can be done by hiring one additional person that works 40 hours a week for 52 weeks (40 x 52 = 2,080) or by increasing several employees' hours to a combined 2,080 hours over a year.

The second measure is the change in the number of employees at project locations. The Legislature, through the Legislative Performance Audit Act, indicated that it is concerned not just with FTEs, but also with actual employed individuals. We worked with the Department of Labor (Labor) to use Quarterly Census of Employment and Wages

(QCEW) information to measure employment change. Total employment equals the number of individuals that worked at a company or site in a month.[16] This number includes part-time and short-term employees as well. For companies that could be identified in the Labor database, we found the average total employment in the base year of their agreement. We then compared this to the average number of total employees in the second year of their agreement. The difference between the two is the Average Annual Employment Increase (AAEI).[17]

Between 2004 and 2022, more than 96% of the increase in program FTEs occurred in rural locations, an increase of 351 FTEs. Reviewing individual company employment records to determine the AAEI, we found an increase of 319 employees in rural areas, which was over 99% of the total AAEI for the program (Figure 2.4).[18]

Figure 2.4. Rural areas saw the vast majority of increased FTEs and annual employment increases.

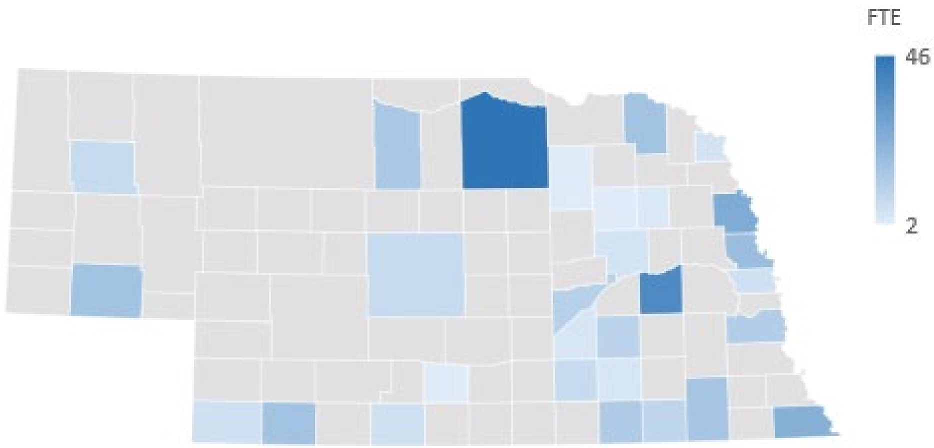
	Increase in FTEs	Average Annual Employment Increase
Rural	351 (96%)	319 (99.7%)
Urban	13 (4%)	1 (.3%)
Total	**364**	**320**

Source: Audit Office analysis of Department of Revenue data.

Participants in the Rural Development program created FTEs in 29 of Nebraska's 93 counties. These new FTEs were spread throughout the state, with a higher concentration in the eastern counties. Holt and Butler saw the largest increases (Figure 2.5).

[16] We found employee information in Department of Labor Quarterly Census of Employment and Wages data. For companies with multiple sites, we looked for data on the site with the incentivized project. In most cases a single site's information was identified and usable. In a few cases the project site's data was combined with other sites. We found the data closest to the site level as possible. We call this a "localized" employee.
[17] We also attempted to find the number of "full-time workers" as defined in the Legislative Performance Audit Act, which would have removed some short-term and part-time employees for a better representation of full-time employees. However, due to data limitations, this was not a feasible analysis.
[18] This is the increase in average annual employees from base year to second year of agreement for the 34 of 41 projects that had job requirements that we were able to analyze.

Figure 2.5. Rural Development program projects generated an increase in FTEs over a wide geographic area.



Source: Audit Office analysis of Department of Revenue data.

As discussed in Section 1, as part of their agreements, participating companies include how many FTEs they intend to create. For the 113 projects reviewed, program participants expected to create 358 FTEs. Looking at the actual increase in FTEs by location, rural area projects exceeded expectations, while urban area projects created fewer FTEs than expected (Figure 2.6).

Figure 2.6. Projects in rural areas created more FTEs than expected.

	Increase in FTEs	
	Expected	Actual
Rural	337	351
Urban	21	13
Total	**358**	**364**

Source: Audit Office analysis of Department of Revenue data.

Smallest Counties

During debate on the Rural Development program, senators expressed hope that it would be used in the smallest, or least populated, counties in the state. We looked at program activity in all counties, defining the smallest as the 73 counties that had less than 15,000 residents. Breaking program activity down by county size, the majority of program activity occurred in the smallest counties (Figure 2.7). These counties had more projects, credits, investment, FTEs, and total employee increase than the largest 20 counties.

Figure 2.7. Most activity associated with the program occurred in counties with fewer than 15,000 residents.

County Population	Number of Projects	Earned Credits	Investment	Increase in FTEs	AAEI
Below 15,000	70 (62%)	$9 M (72%)	$267.7 M (74%)	298 (82%)	235 (73%)
15,000 & Above	43 (38%)	$3.5 M (28%)	$93.6 M (26%)	66 (18%)	85 (27%)
Total	**113**	**$12.5 M**	**$361.3 M**	**364**	**320**

Source: Audit Office analysis of Department of Revenue and Department of Labor information.

Activity by Industry

Most economic activity in rural areas from the Rural Development program was in the Agriculture and Manufacturing industry sectors. Investment in Agriculture outpaced investment in all other industries combined, while more FTEs were generated in Manufacturing than all other industries combined. For projects located in urban areas, the most activity was in the Management of Companies & Enterprises and Manufacturing sectors (Figure 2.8).

Figure 2.8. Most rural activity occurred in the Agricultural and Manufacturing sectors.

Rural Areas				
Industry Sector*	**Earned Credits**	**Investment**	**Increase in FTEs**	**AAEI**
Agriculture, Forestry, Fishing & Hunting	$6.6 M (56%)	$190.7 M (59%)	86 (25%)	99 (31%)
Manufacturing	$1.7 M (15%)	$32.8 M (10%)	199 (57%)	141 (44%)
Wholesale Trade	$1.7 M (15%)	$68.7 M (21%)	26 (7%)	29 (9%)
Construction **Information** **Management of Companies & Enterprises** **Transportation & Warehousing**	$1.8 M (15%)	$29.9 M (9%)	40 (11%)	49 (15%)
Rural Total	**$11.7 M**	**$322.1 M**	**351**	**319**

*Some sectors were combined for confidentiality.

Urban Areas				
Industry Sector*	**Earned Credits**	**Investment**	**Increase in FTEs**	**AAEI**
Agriculture, Forestry, Fishing & Hunting	$365,100 (46%)	$22.4 M (57%)	5 (38%)	-8
Management of Companies & Enterprises **Manufacturing**	$421,999 (54%)	$16.8 M (43%)	8 (62%)	9
Urban Total	**$787,099**	**$39.2 M**	**13**	**1**
Program Total	**$12.5 M**	**$361.3 M**	**364**	**320**

Source: Audit Office analysis of Department of Revenue and Department of Labor information.
*Some sectors were combined for confidentiality.

Metric 2: Economic Activity in Distressed Areas

How has the program performed in distressed areas?

Results

Most program activity occurred in areas that did not meet the statutory definition of distressed. The five projects located in distressed areas of the state earned $1.5 million in credits, invested $54.7 million, and increased employment based on two measurements (Figure 2.9).

Figure 2.9. Distressed areas saw some activity associated with the program.

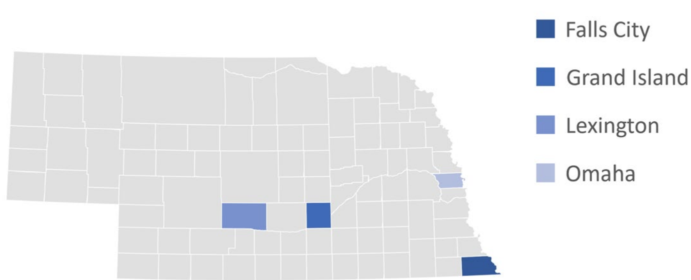
	Project Location	Earned Credits	Investment	Increase in Full-time Equivalents	Average Annual Employment Increase
Distressed	5 (4%)	$1.5 M (12%)	$54.7 M (15%)	10 (3%)	17 (5%)
Not Distressed	108 (96%)	$11 M (88%)	$306.6 M (85%)	354 (97%)	303 (95%)
Total	**113**	**$12.5 M**	**$361.3 M**	**364**	**320**

Source: Audit Office analysis of Department of Revenue and Department of Labor information.

Discussion

By statute, distressed areas are defined as Areas of Substantial Unemployment (ASUs) as designated by the Nebraska Department of Labor.[19] Of the five projects in distressed areas, two were in Omaha (Figure 2.10). Falls City, Grand Island, and Lexington each had one distressed-area project.

Figure 2.10. Cities in four counties had projects in distressed areas.



Source: Audit Office compilation of Department of Revenue data.

[19] ASUs are made up of contiguous census tracts with an unemployment rate of 6.5% or higher over a 12-month average.

Credits and Investment

Of the over $12 million in total credits earned by participants, 12% were earned by projects in distressed areas. Eighty-eight percent were in areas that did not meet the statutory definition of distressed. The project in Falls City earned more credits than the other distressed area projects combined. Eighty-five percent of investment occurred in non-distressed locations.

Jobs

More than 97% of program FTEs occurred in locations that were not distressed. Department of Revenue records showed an increase of 10 employees in distressed areas. Omaha's two projects earned the city more FTEs than any other distressed area.

When we looked at distressed area employment using Department of Labor records to calculate the Average Annual Employment Increase (AAEI), we were able to identify an increase of 17 employees at projects in distressed areas.[20]

Employment Terms

Full-time Equivalent (FTE)
Equal to 2,080 hours of increased work in a year

Average Annual Employment Increase (AAEI)
Change in average annual employees from base year to the 2nd year of agreement

Methodology

We received a list of Areas of Substantial Unemployment (ASU) census tracts from the Department of Labor for 2007 through 2022. The ASU list was cross referenced with project locations. Any project with a location that was in an ASU at any time from their agreement's base year to the second qualification year was counted as a distressed area project.

[20] Increase in average annual employees from base year to second year of agreement. 34 of 41 projects that had job requirements were able to be analyzed.

Metric 3: Wages

How did wages at incentivized projects compare to state and county averages?

Results

For the 37 projects reviewed for this metric, the Audit Office found a wide range of average wages for employees. The highest average wage was estimated at nearly $60,000 and the lowest average wage was estimated at under $20,000 per year. Wages for 14 projects were higher than the statewide average. We also identified 24 projects that had average wages higher than their county average wage in the comparable year.

Discussion

For this analysis, we looked at average yearly wages of all localized project employees for Level 1 and Level 2 projects, the program tiers that have employment and wage requirements.[21] With the assistance of the Department of Labor, we were able to find usable wage information for 37 of the 41 projects. We then identified the average total wages reported in the second year of each participant's agreement.[22] Using this information, we estimated that the highest average wage was nearly $60,000 and the lowest average wage was about $20,000 per year.

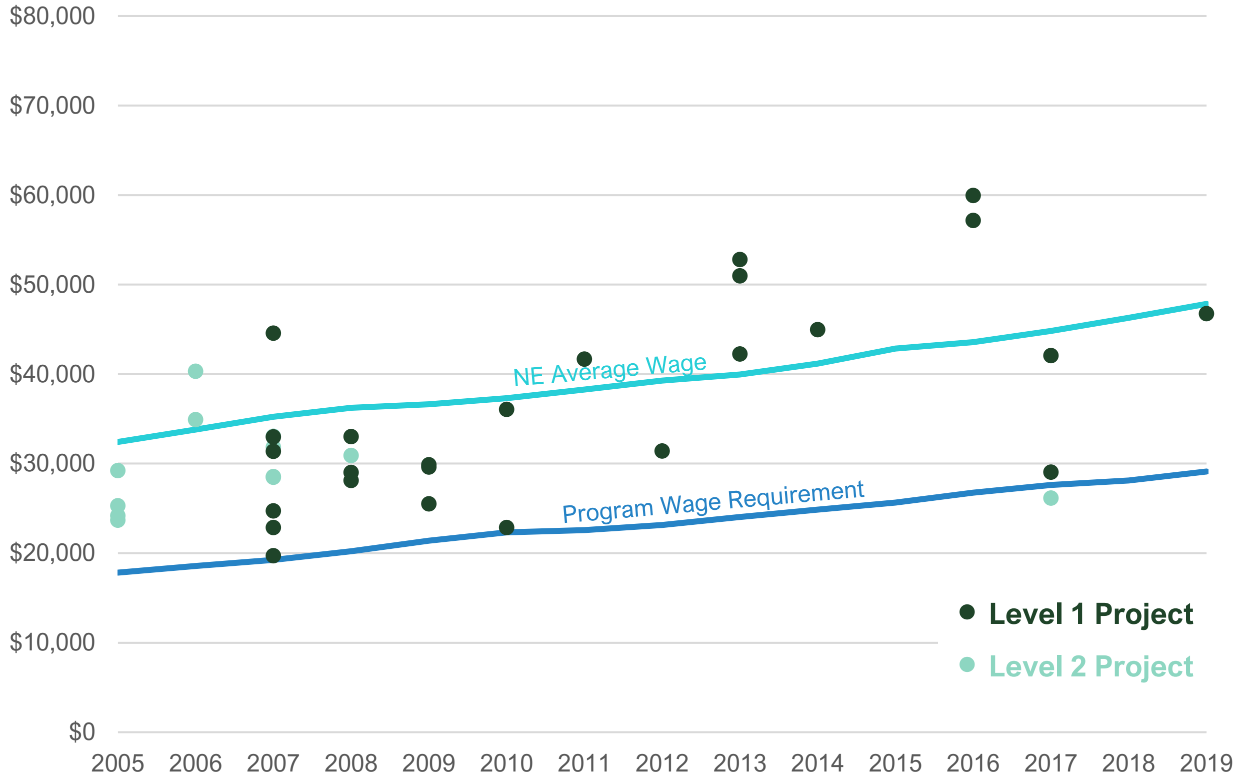
Comparison to Statewide Average Wages

For the 37 projects reviewed, 14 had wages higher than the statewide average for the comparable year. As the program progressed, a higher percentage of projects were over the statewide average wage: while 3 of 25 (12%) were higher from 2005 to 2010, 7 of 12 (58%) were higher from 2011 to 2019. Although there were fewer projects in the later years, they tended to pay higher wages.

The dots in Figure 2.11 are the average wages for each of the 37 projects. The lower line is the baseline wage requirements for the Rural Development program and the higher line is the statewide average wage.

[21] We found employee information in Department of Labor Quarterly Census of Employment and Wages data. For companies with multiple sites, we looked for data on the site with the incentivized project. In most cases a single site's information was identified and usable. In a few cases the project site's data was combined with other sites. We found the data closest to the site level as possible. We call this a "localized" employee.
[22] See the methodology subsection on page 22 for more information.

Figure 2.11. Average annual wages tended to be higher in the later years of the program.



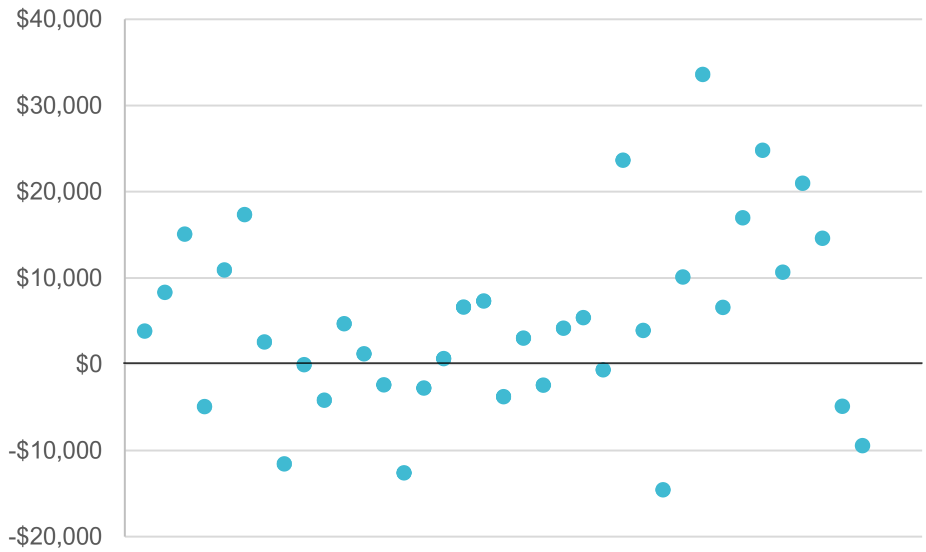
Source: Audit Office analysis of Department of Revenue and Department of Labor information.
Note: There is one project that had estimated average annual wages that appears in the figure to be below the wages required by statute. This is because we are looking at total employees and not just the employees that contributed to the increase in FTEs as explained in the methodology section.

Comparison to County Average Wages

We also compared the localized project average wages to their respective county average wage.[23] There were 24 projects that had average wages higher than their county, while the remaining 13 were lower. The typical project in the program had wages that were almost $5,000 above the county average wage. The project with the highest wage above their county average was $33,000 above average and the lowest wage below the county average was $14,000 below the average. In Figure 2.12, the dots are individual projects as compared to each of their county's average wage—dots that are above $0 are higher than their county's average and dots under $0 are below it.

[23] County average wages were found using Department of Labor QCEW information.

Figure 2.12. Most projects had average wages that were higher than their county's average wage.



Source: Audit Office analysis of Department of Revenue and Department of Labor information.

Methodology

For this metric, the second year of jobs and wages was used to calculate a yearly average wage for employees in the most localized reporting unit possible. As stated previously, the Rural Development program rewards increased hours rather than increased jobs. We cannot determine which actual individuals contributed hours to the pool of FTEs. The next best measure of incentivized wages is that of all employees at the company or localized job site. We used a formula to estimate the average yearly wage of those employees using Department of Labor information.

Average annual wages that result from these calculations will almost always be a slight underestimate of the actual wage rates of the localized employees. This is because the total number of employees will include some duplicates. There are some duplicates because the Department of Labor records the total number of employees that worked at a company in a month. If a person leaves and is replaced in that month, there will be a record of two people who both held the same position. This situation does not affect the total wages reported. That means there will likely be some average yearly wages that are slightly inflated and cannot be corrected for, which will result in a lower average than actually occurred.

Metric 4: Cost Per Job

Using program benefits, what was the cost to create each job?

Results

Two different cost per job estimates were generated for the program, both using full-time equivalents for the employment numbers. The lowest cost per job estimate, $2,053, includes only program employment credits. The highest estimate, $34,307, includes both investment and employment credits earned through the program.

Discussion

For this metric, the Audit Office used full-time equivalents (FTEs) to estimate cost per job. As discussed in the Economic Activity in Rural Areas metric, each FTE is equal to 2,080 hours of increased work in a year, not necessarily a new full-time position.

Full-time Equivalent (FTE)

Equal to 2,080 hours of increased work in a year

The Audit Office is required by statute to estimate cost per job at least two different ways. For this audit, one cost per job estimate includes all earned program credits while the other uses only employment credits.

Some amount of economic activity associated with the program would have happened without the incentive. A but-for analysis is an attempt to estimate how much activity was due to the program, and how much would have happened anyway (see page 10 for more discussion of the but-for question). To the extent that jobs would have been created anyway, the true cost per job would be higher than estimated here.

Estimate 1: All Employment and Investment Credits

The first estimate uses all earned credits in the calculation. This shows us the cost per job of the program as a whole. Because investment credits are included in the calculation, the first estimate is larger.

FTEs	364
All Earned Credits	$12,487,815
Cost Per Job (ALL/FTE)	**$34,307**

Estimate 2: Only Employment Credits

The second estimate only uses earned employment credits in the calculation. The vast majority (94%) of credits earned through the program were investment credits. When those credits are removed from the calculation, the cost per job estimate drops significantly. Although the program provides a credit of $3,000 per new FTE, companies do not receive any employment credits if they do not reach 75% of the number of expected FTEs included in their agreement.[24] Five projects received investment credit but did not create enough FTEs to receive employment credit.

FTEs	364
Employment Credits Only	$747,280
Cost Per Job (EMP ONLY/FTE)	**$2,053**

Methodology

Information on FTEs and credits awarded comes from the Department of Revenue tracking sheets and taxpayer documents. For this metric, we primarily used employment credit information from Revenue tracking sheets and taxpayer notifications. For a few projects, however, taxpayer notifications were not available.[25] For these projects, if they had FTEs recorded as being created, we assumed they received the full $3,000 credit for those FTEs. The remaining credit they received was assumed to be investment credit.

We also analyzed what the cost per job would be using the average annual employment numbers found elsewhere in this report in place of the FTEs used here. That analysis did not result in a large difference in our estimate, so we did not include it.

[24] Participants are required to create at least 75% of the FTEs that are in their agreement. If a company does not create 75%, they earn no employment credits.
[25] Some records were unavailable because of a storage issue from early in the life of the program. This was a known issue discussed in our previous report on this program.

Metric 5: New to Nebraska and Sustained Companies

How many program participants were new to Nebraska? How many program participants were still in Nebraska five years after receiving tax credits?

Results

We identified 16 projects by companies that met the statutory definition of new to Nebraska and 49 projects whose companies were still operational in Nebraska five years after they received credits. We cannot determine whether the program was the deciding factor for any or all of these companies being created, moving into the state, or remaining operational.

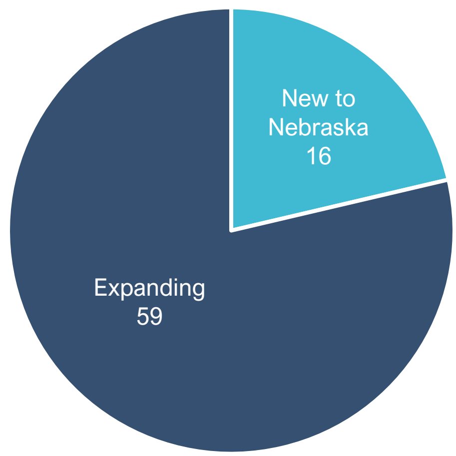
Discussion

New to Nebraska

For this metric, a new company is one that did not pay income taxes or wages in the state more than two years prior to submitting an application under the tax incentive program. Any other companies were considered "expanding." Of the 113 projects we reviewed, we were able to make a new or expanding determination for 75 projects.[26] Sixteen of the 75 projects' companies fit the new to Nebraska definition; the remaining 59 companies were existing companies that expanded (Figure 2.13).

[26] For the remaining 38 projects, 36 were for individual, unincorporated taxpayers and there was not enough information available to determine if those individuals were performing new economic activities. The other two projects were incorporated but we were unable to determine if they were new or expanding.

Figure 2.13. There were more companies participating in the Rural Development program that were expanding than were new to the state.



Source: Audit Office analysis of Department of Revenue and Department of Labor information.

Level 1 had more new company participants than any other tier. Livestock Modernization had the most expanding projects (Figure 2.14).

Figure 2.14. Level 1 had the most companies that were new to Nebraska.

	New	Expanding
Level 1	8	20
Level 2	6	7
Livestock Modernization	2	32
Total	**16**	**59**

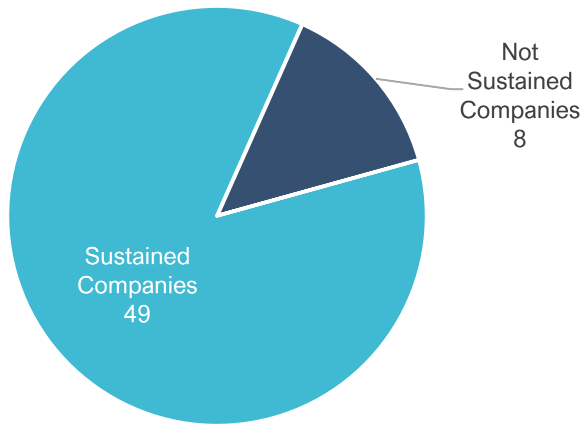
Source: Audit Office analysis of Department of Revenue and Department of Labor information.

Sustained Companies

We defined a sustained company as one with activity five or more years after credits were earned. A company with a credit earned on January 1, 2006 would be a sustained company if they had activity in Nebraska on January 1, 2011 or beyond. "Sustained" is used rather than "retained" so as to not indicate that the credit was the reason for their continued existence in Nebraska. We did not make a causal judgment about whether the program was the reason these companies remained for at least five years.

Using this definition, there were 49 Rural Development program projects by companies that were sustained and eight projects by companies that were not (Figure 2.15).[27]

Figure 2.15. Of the companies whose status could be determined, most were still in Nebraska 5 years after earning credits.



Source: Audit Office analysis of Department of Revenue and Department of Labor information.

Looking at program participation by program tier, all three program tiers had more sustained companies than those that were not sustained (Figure 2.16). In addition to the 49 companies that were sustained and the 8 that were not, there were 20 projects that have received credits but have not yet had five years elapse since their credit was earned.

Figure 2.16. The majority of companies we analyzed remained active in Nebraska.

Program Tiers	In NE 5 Years After Credits Earned?		
	Yes	No	< 5 Years
Level 1	21 (43%)	3 (38%)	4 (20%)
Level 2	11 (22%)	1 (13%)	1 (5%)
Livestock Modernization	17 (35%)	4 (50%)	15 (75%)
Total	**49**	**8**	**20**

Source: Audit Office analysis of Department of Revenue and Department of Labor information.

[27] There were another 36 Livestock Modernization projects for individual, unincorporated taxpayers. Because they were unincorporated, there was not enough information to determine if they were still performing the economic activities for which they received credit five years later.

Methodology

New to Nebraska

We identified companies using program information from the Department of Revenue. Each company was assigned an earliest date of activity. Most often, the earliest date of activity was from the Date Business Began field on tax returns. If this date was not recorded on tax returns, other records from Department of Revenue and/or Department of Labor sources were used.

The earliest activity date was then compared to the authorized application date. Any company with an earliest activity date that occurred within a two-year window prior to the application date, or after the application date, was determined to be new to the state.

We attempted to examine projects credited to individuals, but there was not sufficient information available to make reasonably conclusive determinations as to when they started doing the activity they eventually received credit for. These were sole proprietorships or family farms that were not incorporated and did not have employees or withholding eligible wages to track. They all received Livestock Modernization credits.

Sustained Companies

We identified companies using program information from the Department of Revenue. We then found the date that they were issued credit. We then looked for evidence for a company's most recent activity using Department of Revenue and Department of Labor information. The most recent activity date was then compared to the date that the notification of credits was sent to the company.

We attempted to examine projects credited to individuals, but there was not sufficient information available to determine how long the credited activity continued. These were sole proprietorships or family farms that were not incorporated and did not have employees or withholding eligible wages to track. They all received Livestock Modernization credits.

Metric 6: Additional Public Funding

Did program participants receive other state tax incentives?

Results

Of the 109 participants with projects that earned credit under the Rural Development program, we identified 10 that received a combined $12.2 million in benefits from other Nebraska tax incentive programs.

Discussion

A total of 10 companies participating in the Rural Development program received funding from other incentive programs (Figure 2.17).[28]

There were four companies that also participated in either the Employment and Investment Growth Act (LB 775) or the Nebraska Advantage Act (LB 312). Combined, they received a total of $11.8 million from these two programs. In order to maintain taxpayer confidentiality, we are unable to provide details on participation in each program separately.

The highest number of Rural Development program participants also received benefits from the Employment Expansion and Investment Incentive Act (LB 270). However, although eight companies participated in the Rural Development program and LB 270, they received a total of less than $500,000 in benefits from LB 270.

Figure 2.17. Rural Development program participants also received $12.3 million in benefits from other tax incentive programs.

Incentive Program	Number of Companies	Amount of Credits
Employment & Investment Growth Act (LB 775) **Nebraska Advantage Act (LB 312)**	4	$11.8 M
Employment Expansion & Investment Incentive Act (LB 270)	8	$462,474
Total	**10***	**$12.3 M**

Source: Audit Office analysis of Department of Revenue data.
*Ten total companies received credits from these three programs, some of which received credits from more than one.

[28] In addition to the three incentive programs included in Figure 2.17, the Audit Office also looked at the Microenterprise Act and the New Markets Job Growth Investment Act and found no Rural Development participants that received benefits from these programs.

Methodology

The Audit Office looked at credit histories from five tax incentive programs, which were provided to us by the Department of Revenue. We matched company names and recorded the other incentive program they participated in, the first year they received credits in that program, and the amount of credits earned.

Administrative Cost

What is the cost to administer and promote all tax incentive programs?

Results

For 2016 to 2021, the Department of Revenue spent $9.6 million to administer all tax incentive programs. For 2019 through 2021, there were no costs to the Department of Economic Development related to the Rural Development program.

Discussion

The Rural Development program is one of several tax incentive programs administered by the Department of Revenue (Revenue). Revenue does not track expenditures specific to the Rural Development incentive because administration of the program is done in conjunction with all of the other tax incentive programs. Revenue spent an average of $1.6 million each year for the administration of all tax incentive programs from 2016 to 2021, for a total of $9.6 million. The Rural Development program is one of the smaller incentive programs and is therefore a small portion of the overall cost of incentive administration.

In previous years, the Department of Economic Development (DED) had incurred costs related to the Rural Development program because it was included as a part of a package of incentives that were promoted together. According to DED, there were minimal, if any, administrative or promotional costs for the Rural Development incentive in the 2019 to 2021 time period. DED used their resources on incentives the agency administers, recently focusing their efforts on the new ImagiNE Act tax incentive program.

Methodology

The Department of Revenue and the Department of Economic Development provided information pertaining to budgeting and policy decisions affecting program administration.

Fiscal Protections

What are the fiscal protections in the Act?

Results

Because the Rural Development program contains several important fiscal protections recommended by the Pew Charitable Trusts, including performance-based incentives, recapture provisions, and a yearly cap, the program is at low risk for exceeding expected costs.

Discussion

When analyzing tax incentive programs, the Audit Office uses recommendations from a 2015 Pew Charitable Trusts report.[29] This report details the difficult position states are placed in when an unexpected decrease in state revenue occurs because tax incentive programs lack fiscal controls. The Pew report made nine recommendations for ensuring tax incentive programs do not cause unexpected fiscal challenges; the Rural Development program meets five of these recommendations (Figure 2.18).

The Rural Development program contains an annual cap on expenditures, which the Pew report characterized as "one of the strongest protections against surprise increases in tax incentive costs."[30] Additionally, the program meets several other recommendations, including timely sharing of information across relevant agencies, linking incentives to company performance, and requiring companies to provide advance notice of program participation.

Of the three Pew recommendations that are not met by the Rural Development Act, the most critical is that the program does not limit participants' benefits to the extent of their tax liability. In most circumstances, the Act provides participants a fully refundable benefit, meaning they receive payment for any amount over their actual tax liability. The other two recommendations that are not met are regularly forecasting the cost and requiring lawmakers to pay for incentives through the budget appropriation process.

[29] The Pew Charitable Trusts, *Reducing Budget Risks: Using Data and Design to Make State Tax Incentives More Predictable*, December 2015.
[30] Ibid.

Figure 2.18. The Rural Development Act meets five of nine Pew Center fiscal protection measures.

Pew Report Recommendation	Rural Development	Audit Office Remarks
Gather and share high-quality data on the costs of incentives by:		
Regularly forecast the cost	**No**	Costs are not forecasted, however, the program is relatively small and capped
Monitor costs and commitments of large and high-risk programs	**Not Applicable**	Program is relatively small, capped, and sufficiently tracked
Share timely information on incentives across relevant agencies	**Yes**	Adequate language in statute exists to give Audit Office access to information
Design incentives in ways that reduce fiscal risk:		
Capping how much programs can cost each year	**Yes**	Program has caps on available benefits each application cycle for both L1/L2 and LM and caps on individual agreements
Controlling the timing of incentive redemptions	**Yes**	Controlling the timing of incentive redemption is difficult, however, because the credit is refundable, it's typically used within a year of being earned
Requiring lawmakers to pay for incentives through budget appropriations	**No**	Funding for this program does not go through the appropriations process
Restricting the ability of companies to redeem more in credits than they owe in taxes	**No**	Program credits are refundable
Linking incentives to company performance	**Yes**	Program has both performance standards and recapture provisions
Requiring businesses to provide advance notice of program participation	**Yes**	Applications and signed agreements are required before credits can be earned

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*, December 2015.

APPENDIX

Figure A. Rural Development Program Annual Cap and Utilization: 2004-2015

Fiscal/Calendar Year	Annual Cap	Authorized Benefits	Percent of Cap
FY 2004-05	$2.5 M	$713,000	29%
FY 2005-06	$2.5 M	$2.1 M	83%
FY 2006-07	$3 M	$1.6 M	52%
FY 2007-08	$3 M	$3 M	100%
FY 2008-09	$3 M	$3 M	100%
FY 2009-10	$4 M	$1.3 M	32%
CY 2010*	$4 M	$829,750	21%
CY 2011	$4 M	$2.4 M	60%
CY 2012	$1 M	$1 M	100%
CY 2013	$1 M	$1 M	100%
CY 2014	$1 M	$1 M	100%
CY 2015	$1 M	$935,500	94%
Total	**$30 M**	**$18.8 M**	**63%**

Source: Audit Office compilation of data from Department of Revenue Annual Reports.
*In 2010, program administration shifted from fiscal year to calendar year, meaning the year only ran from July 1, 2010 to December 31, 2010.

III. Agency Response

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 performance audit report and describe any significant disagreements the agency has with the report or recommendations.

The Department of Revenue provided no comments about the draft report.