Senator Suzanne Geist
Committee Chair
P.O. Box 94604, State Capitol
Lincoln, NE 68509
402-471-2731

Legislative Performance Audit Committee

Legislative Audit Office
Martha Carter, Legislative Auditor
P.O. Box 94604, State Capitol
Lincoln, NE 68509
402-471-1282

FOR IMMEDIATE RELEASE
CONTACT: Senator Suzanne Geist, (402) 471-2731

April 11, 2019

Nebraska Advantage Act Performance on Selected Measures

The Legislative Audit Office today released a report on the performance from 2008 – 2017 of the Nebraska Advantage Act on seven measures. Performance Audit Committee chair Senator Suzanne Geist noted that the report provides the Legislature with new information on Advantage Act projects. “This report gives us critical new information that will help us as we discuss the future of tax incentives in the State.”

The Performance Audit Committee report shows a larger than expected impact on the state budget. In four of the last five years reviewed in the report, the program 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.

“With the increased public interest in the cost of incentives and a major overhaul currently being discussed in the Legislature, the release of this report will help create a much needed discussion about tax incentives going forward,” Geist said.

Geist said the report’s estimated costs per new full-time equivalent (FTE) created raise questions for policymakers as well. The Office reported an average cost per FTE range of $5,159 to $208,559 for every year they existed. The variance in cost is dependent on whether the calculation includes all program benefits or only a portion of them, whether the program is credited with creating all of the new FTEs or whether some would have been created even without the program, and the estimated economic effects found through economic modeling.

In 2018, the Legislature defined what a new company to the state is for tax incentive evaluations. According to the statutory definition, 13 companies with Advantage Act projects that used benefits were new to Nebraska.

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. Geist said, “The Committee made several recommendations saying that incentive reports would be more useful if the Legislature had clear expectations related to costs per job, and budgetary impacts on the state, cities, and counties.”

In order to get the report out in time to inform the Legislature on the Advantage Act this legislative session, the Audit Office was not able to re-examine all of the metrics that were in the previous performance audit of the program. "We did as much as we could to update Senators on the program in time for any major tax incentive discussions on the floor," Geist said. The Performance Audit Committee will decide whether or not to update the remaining metrics based on the actions the Legislature takes on tax incentives this session.

The report is the sixth 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 five years.

END

Nebraska Advantage Act: Performance on Selected Metrics

Performance Audit Committee
Nebraska Legislature

April 2019

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Performance Auditors:
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Franceska Cassell
Anthony Circo
Clarence Mabin
Dana L. McNeil

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LEGISLATIVE AUDIT OFFICE
Nebraska Legislature
1225 L Street, Suite 502 • Box 94604 • Lincoln

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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, 2017, the latest date for which the Nebraska Department of Revenue (Revenue) had confirmed figures when the audit began. During that period, 124 companies used benefits for 135 projects under the Act.

Nebraska Advantage Act Audit Conclusions

As the Advantage Act sunsets at the end of 2020, the Performance Audit Committee (Committee) had initially planned the second audit of the program to be finished in the fall of 2019, in advance of the 2020 legislative session. However, in the fall of 2018, the Committee learned that the Legislature was interested in taking up the discussion sooner—during the 2019 legislative session—and therefore pushed up the timeline for a portion of the Advantage Act audit.

Due to this abbreviated timeframe, this report has a more limited scope than the previous audit. The Committee intends this audit to provide information to help aid discourse regarding whether to extend the Act's sunset date, modify the Advantage Act, and/or replace the Advantage Act with a new incentive program. If the Legislature does not substantively alter the Advantage Act during the 2019 session, the Audit Office will release a second report on additional metrics prior to the 2020 session.

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.

Tax Credits Issued

As of December 31, 2017, the 140 Advantage Act projects reviewed for this report had earned $1.2 billion in benefits. Of those projects, 135 had used an estimated $705.2 million in benefits, leaving $497 million in benefits yet to be used.

New to Nebraska

<u>Metric 1</u>: How many incented companies were new to Nebraska?

The Audit Office considered a company to be new to Nebraska 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. Of the 124 companies that used Advantage Act benefits by the end of 2017, 13 (10%) met this definition.

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

Cost per Full-Time Equivalent

<u>Metric 2</u>: What is the range of costs, in state and local benefits, for each new full-time equivalent?

Instead of estimating a cost per full-time equivalent (FTE) we estimated a cost per FTE-year (one FTE for one year). Using FTE-years acknowledges that the program requires FTEs to be maintained for more than a single year. The cost per FTE-year is based on 70 of the 135 projects in our population that had reached the point in their agreements where they could no longer earn additional tax credits.

We identified two critical factors in estimating the cost per FTE-year that make a large difference in the estimates. First, the estimates are much lower if tax credits earned on investment are not included because investment credits make up the largest portion of benefits earned. Whether or not they should be included depends on if the Legislature believes that investment is a goal of the Advantage Act in and of itself—in which case the investment tax credits should not be included in the analysis—or whether investment is a strategy towards meeting the goal of job creation—in which case the investment credits should be included.

The second critical factor is whether the analysis assumes that all FTEs created by incentivized companies are attributable to the Advantage Act. The cost is much lower if all the FTEs are used; however, subject matter experts believe that doing so overstates the program's actual effect.

We estimate that each of the new FTEs attributed to the Advantage Act cost the state between $7,440 and $208,559 per year they existed. The wide variance in the cost comes from the use of different assumptions in the analysis.

Recommendation: Future performance audits would be improved if the Legislature established a range for what it believes is an acceptable cost per FTE-year.

Economic Modeling

<u>Metric 3</u>: What information does economic modeling provide regarding the impact of the Advantage Act?

This audit is the first in which the Audit Office was able to use economic modeling software. We used it to estimate the number of job years that would not have existed but for the Advantage Act, as well as the cost per job-year. The version of the REMI modeling software used for this evaluation was unable to simulate certain policy scenarios or produce some economic results desired by the LR 444 committee, including estimating the revenue produced directly and indirectly by the Advantage Act.

As in Metric 2, a critical factor is whether the analysis assumes that all FTEs created by incentivized companies are attributable to the Advantage Act. The cost is much lower if all the FTEs are used; however, subject matter experts believe that doing so overstates the program's actual effect.

We used REMI economic modeling software to estimate that the Advantage Act was responsible for between 6,829 and 136,688 job years in the Nebraska economy from 2008 to 2017. The cost range for one job for one year is estimated to be between $5,159 and $103,252.

Recommendation: Future performance audits would be improved if the Legislature established a range for what it believes is an acceptable cost per FTE-year.

Recommendation: If the Legislature would like to model additional alternative scenarios and estimate other economic impacts such as revenue generation or loss, it should consider contracting for software with that additional capability.

Local Impacts

<u>Metric 4</u>: What is the fiscal impact of the Advantage Act's sales and use tax refunds on local governments?

Between 2008 and 2017, revenue to cities was reduced by nearly $36.7 million as a result of the Advantage Act's sales and use tax refunds.

Recommendation: Future performance audits would be improved if the Legislature established a range for what is too great of an impact from these refunds on a given city.

<u>Metric 5</u>: What is the fiscal impact of the Advantage Act's property tax exemptions on local governments?

Between 2008 and 2017, property in nine counties was exempted from taxation due to the Advantage Act. The exemption was claimed by 27 projects and totaled an estimated $109.5 million. The largest estimated impact was on Platte County ($40.4 million), followed by Sarpy County ($34 million) and Washington County ($21.3 million).

Property taxes support multiple political subdivisions. Between 2008 and 2017, the largest impact was on school districts, which lost the highest proportion of the estimated exempted amounts ($65.8 million or 60% of the total exempted), followed by counties ($17.4 million or 16%), and cities/villages ($10.8 million or 10%).

Recommendation: Future performance audits would be improved if the Legislature established a range for what it believes is too much of an impact from this exemption on a given county or political subdivision.

Fiscal Protections and Impact

<u>Metric 6</u>: What protections are in the Advantage Act to ensure its fiscal impact does not increase beyond expectations?

Comparing the Advantage Act to The Pew Charitable Trusts recommendations, 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. It does not, however, cap how much the program can cost each year or require lawmakers to pay for incentives through budget appropriations, which could have prevented the program from increasing beyond the state's expectations.

We stated in our 2016 report that in some years, foregone revenue had exceeded the Legislature's expectations when the program was created and economic modeling had suggested that it will do so again. In this report, we found that the revenue foregone by the state due to the Advantage Act has exceeded the Legislature's original expectations of $24 to $60 million per year in four of the last five calendar years.

Recommendation: The adequacy of fiscal protections is a policy question for legislative consideration. If the Legislature is satisfied with the existing protections, it does not need to take any action. If the Legislature is not satisfied with the existing protections, it could consider amending the program in ways that limit revenue impacts and make them more predictable.

II. Legislative Audit Office Report

Legislative Audit Office Report

Nebraska Advantage Act: Performance on Selected Metrics

April 2019

Prepared by
Anthony Circo
Craig Beck
Stephanie Meese

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INTRODUCTION

In 2015, the Legislature passed LB 538 which required the Legislative Audit Office to conduct a performance audit of each business tax incentive program at least once every five years.[1] The Audit Office's first audit under this law was a review of the Nebraska Advantage Act in 2016; this is the second audit of this program.

As the Advantage Act sunsets at the end of 2020, the Performance Audit Committee (Committee) had initially planned the second audit of the program to be finished in the fall of 2019, in advance of the 2020 legislative session. However, in the fall of 2018, the Committee learned that the Legislature was interested in taking up the discussion sooner—during the 2019 legislative session—and therefore pushed up the timeline for a portion of the Advantage Act audit.

Due to this abbreviated timeframe, this report has a more limited scope than the previous audit. The Committee intends this audit to provide information to help aid discourse regarding whether to extend the Act's sunset date, modify the Advantage Act, and/or replace the Advantage Act with a new incentive program. If the Legislature does not substantively alter the Advantage Act during the 2019 session, the Audit Office (Office) will release a second report on the remaining metrics prior to the 2020 session.

Specifically, the Performance Audit Committee requested that the Audit Office answer the following questions in this audit:

1. Is the Advantage Act meeting the goal of strengthening the state's economy overall by attracting new business to the state and increasing employment?
    - How many incented companies were new to Nebraska?
    - What is the range of costs, in state and local benefits, for each new full-time equivalent?

2. What are the Advantage Act's economic and fiscal impacts?
    - How many tax credits have been issued under the Act?
    - What information does economic modeling provide regarding the impact of the Advantage Act?

3. What is the fiscal impact of the Advantage Act on the budgets of local governments?
    - What is the fiscal impact of the Advantage Act's sales and use tax refunds on local governments?
    - What is the fiscal impact of the Advantage Act's property tax exemptions on local governments?

4. 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?

[1] The review period was changed from once every three years to once every five years by LB 936 (2018).

A new addition to this audit is the inclusion of results obtained from economic modeling. Previously, issues related to data sharing and confidentiality prevented the Office from analyzing the portions of the LR 444 recommendations that included economic modeling. In January 2018, however, a Memorandum of Understanding was signed that resolves these issues and allowed the Office to move forward with economic modeling analysis. For this audit, the Audit Office worked with the Legislative Fiscal Office and Regional Economic Models, Inc. (REMI) support staff to produce reports using REMI PI+, a forecasting and policy analysis tool.

Nebraska Advantage Act: Measuring Effectiveness

When the Legislature created the Advantage Act (Act) in 2005, it did not identify specific measures for assessing the program's effectiveness. In 2013, the 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."[2]

Following release of the 2013 audit, the 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.

The Office's 2016 audit of the Advantage Act used 13 metrics identified by the LR 444 Committee. Due to the more limited scope and timeframe of this audit, the Office used seven metrics in this report. The metrics not included in this report are listed in Appendix A and, to the extent possible, will be included in the potential second audit of the Advantage Act later this year.

About the Audit Results

As the metrics used in this audit were selected by policymakers several years after the Act's adoption, the Act itself does not contain any information regarding expected performance. Without such standards, 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 incented 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.

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

Readers will note that, in some instances, the audit results contain 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 ten companies if the results are from a smaller portion of the state.

Section I of the report contains an overview of the Nebraska Advantage Act, including how many tax credits have been issued under the Act, which is one of the audit's metrics. Section II discusses the remaining metrics related to the audit scope questions. The Appendices contains additional detail on several metrics.

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.[3] 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.

Acknowledgements

The Audit Office extends special thanks to Tax Commissioner Tony Fulton for setting a tone of cooperation in working with us. We also greatly appreciate the time and efforts of Mary Hugo, Kate Knapp, and Liz Gau at the Nebraska Department of Revenue.

We also want to thank Director of the Legislative Fiscal Office Tom Bergquist and Fiscal Analyst Malick Diarrassouba for working with us on the metrics that require economic modeling.

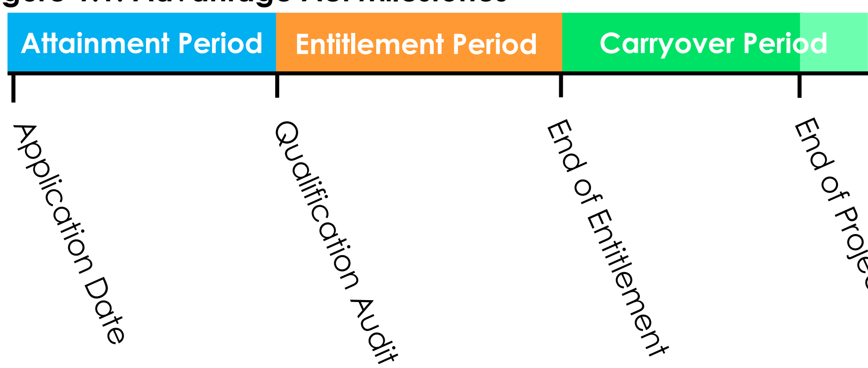
[3] Neb. Rev. Stat. § 50-1205.01.

SECTION I: Nebraska Advantage Act

The Nebraska Advantage Act is a complex program. It has multiple levels of participation, called tiers, which have different eligibility requirements, benefits, and timeframes for completion. This section provides basic information about the Advantage Act, as well as data regarding benefits earned and used under the Act, to help readers understand the metric results presented in the next section of the report.

Advantage Act Project Phases

Figure 1.1. Advantage Act Milestones



A company must move through three project phases to successfully complete its Advantage Act (Act) project. First is the attainment period, which lasts from four to seven years. During this period, the project works to meet the requirements of the tier in which it is participating. The attainment period begins when the Department of Revenue (Revenue), which administers the program, receives the company's application and ends when the project meets its investment and job creation requirements. Revenue conducts a qualification audit to determine whether the project has met the requirements.

The second phase is the entitlement period during which the company is first able to use program benefits[4] and also continues to earn additional benefits. The start of the entitlement period is established by Revenue during the qualification audit;[5] the length of the period varies depending on the tier in which the project is participating (from six to ten years). The project must maintain or exceed the job creation and investment requirements of their tier during this period.

The third phase is the carryover period during which the company may use previously earned benefits but may *not* earn new ones. This period begins when a project has completed its entitlement period. In some circumstances, a project may continue to receive benefits after the end of the carryover period. For example, a project participating in a tier with a 10-year property tax exemption may be eligible for the exemption in years

[4] During the attainment period, a company may, in some instances, receive a personal property tax exemption, as discussed in footnote 10 on page 11.

[5] As this date is prior to the date of the qualification audit, Revenue establishes this retroactively to the date the minimum levels were met by the project.

after the carryover period ends (shown as the light green bar on Figure 1.1). Figure 1.2 describes each period in more detail.

Figure 1.2. The Advantage Act Process

Application Date	The application date is the date that the Revenue Department receives 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.
Attainment Period This period begins on the application date and can last from four to 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.	
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.
Entitlement Period 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.	
Carryover Period 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.	
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.

Time Limits

Time limits apply to each of these periods and to each project as a whole and vary by tier. The maximum life of a project is 30 years. Figure 1.3 shows the time limits for each project period and for the projects overall.

Figure 1.3. Time Limits in Years for Advantage Act Periods and Maximum Agreement Lengths, 2017

Project Phase	Tier 1	Tier 2 (All Subtiers)	Tier 3	Tier 4	Tier 5	Tier 5 LDC*	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	16***
Maximum Life	**10**	**15**	**10**	**15**	**13**	**10**	**30**

Source: Audit Office compilation of information from Nebraska Department of Revenue, *Nebraska Tax Incentives 2017 Annual Report to the Nebraska Legislature*.
*LDC - large data center
**Time periods are limited by the maximum life of the project.
***Carryover period for Tier 6 projects was changed from 1 year to 16 years by LB 161 (2017).

Program Requirements

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). Projects can earn additional benefits if they exceed their respective required tier minimums. They are also subject to recapture, which means that all or a portion of their benefits will not be awarded or will need to be paid back if they drop below the required levels. Figure 1.4 shows the minimum investment and job creation requirements for each tier and subtier.

Figure 1.4. Full-time Equivalent Creation and Investment Requirements by Tier, 2017

	Tier 1	Tier 2 & Tier 2 DC/WP	Tier 2 LDC	Tier 3	Tier 4	Tier 5 & Tier 5 DC/WP/LDC	Tier 5 RE	Tier 6	
								A	B
Investment (millions)	$1	$3	$200	0	$11	$34	$20	$10	$100
FTE Creation	10	30	30	30	100	None, but must maintain existing FTE level		75	50

Source: Audit Office compilation of information from Nebraska Department of Revenue, *Nebraska Tax Incentives 2017 Annual Report to the Nebraska Legislature*. Modified slightly by the Audit Office.
Note: Tier investment minimums may have changed over time. The year of application determines a project's required level of investment.
DC - data center; LDC - large data center; RE – renewable energy; WP - web portal

Program Benefits

The Advantage Act provides four types of benefits: 1) tax credits earned on investment at the project; 2) tax credits earned on compensation of new employees; 3) a direct refund of sales and use tax payments on the project's capital purchases; and 4) an exemption from personal property tax for property at the project. Each tier provides one or more of these benefits.

As shown in Figure 1.5, depending on the tier, incented companies may use tax credits to reduce what they owe on their:

- Sales and use tax;
- Corporate income tax;
- Shareholder/individual income tax;
- Employee compensation withholding; or
- Real property tax.

Figure 1.5. Advantage Act Benefits by Tier and Uses for Credits

	Tier 1	Tier 2	Tier 2 WP/DC	Tier 2 LDC	Tier 3	Tier 4	Tier 5 & 5RE	Tier 5 WP/DC	Tier 5 LDC	Tier 6 A & B
Tax Benefit										
Direct Sales & Use Tax 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,C,E,P
Use of Tax Credits										
Sales & Use Tax Refund	√	√	√	√	√	√				√
Corporate Income Tax Offset or Refund	√	√	√	√	√	√				√
Shareholder/ Individual Income Tax Offset or Refund	√	√	√	√	√	√				√
Employee Withholding Tax Offset or Refund (compensation credits only)	√	√	√	√	√	√				√
Real Property Tax Reimbursement				√						√

Source: Audit Office compilation of information from Department of Revenue, *Nebraska Tax Incentives 2017 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

Advantage Act Participation

Companies first applied for the Advantage Act in 2006 and first earned program benefits in 2008. As projects last several years, 2013 was the first year in which any companies successfully completed their projects. Figure 1.6 shows the total Advantage Act applications received and their status as of December 31, 2017,[6] as well as those numbers from the 2016 audit report. Tier 2 had the most applications from 2008 to 2017, with 247 (36%) of the 695 total applications, as shown in Figure 1.7.

Figure 1.6. Overview of Advantage Act Projects

Status	Last Report (through 12/31/14)	Current Report (through 12/31/17)	Net Increase (Percent Increase)
Completed Applications	501	695	+194 (39%)
Signed Agreements	340	527	+187 (55%)
Qualified Projects	73	132*	+59 (81%)
Projects Subject to Recapture	18	35	+17 (94%)
Projects Completed	1	6	+5 (500%)

Source: Audit Office compilation of Revenue data.
*This number includes 125 qualified projects that have used benefits, plus 7 projects that have qualified and not yet used benefits, for a total of 132 qualified projects.

Figure 1.7. Advantage Act Applications by Tier

Tier	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total (Percent)
Tier 1	24	12	17	6	15	16	22	14	11	21	14	23	**195 (28%)**
Tier 2	43	22	21	11	9	23	22	17	16	22	19	22	**247 (36%)**
Tier 2 LDC							1	1				1	**3 (0.1%)**
Tier 2 WP/DC					13	13	2	6	3	4	8	4	**53 (8%)**
Tier 3	2	1		3	3	3	3	2	9	2	1	3	**32 (5%)**
Tier 4	21	16	11	7	14	6	9	7	11	13	11	6	**132 (19%)**
Tier 5			1		3	1				3	3	1	**12 (2%)**
Tier 5 LDC							1	1				1	**3 (0.1%)**
Tier 5 RE								2	1	3		2	**8 (1%)**
Tier 5 WP/DC								1			1		**2 (0.1%)**
Tier 6			2				1			2	1	2	**8 (1%)**
Total	**90**	**51**	**52**	**27**	**57**	**62**	**61**	**51**	**51**	**70**	**58**	**65**	**695 (100.3%*)**

Source: Audit Office compilation of Revenue data.
*Percentages do not equal 100% due to rounding.

[6] December 31, 2017 is the latest date for which verified program data were available when the audit began.

Tier 2 also had the most signed agreements from 2008 to 2017, with 193 (37%) of the 527 total, as shown in Figure 1.8. Tier 1 had the second most signed agreements, with 140 (27%), then Tier 4 with 106 (20%) signed agreements.

Figure 1.8. Advantage Act Signed Agreements by Tier

Tier	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total (Percent)
Tier 1	24	6	1	5	8	20	11	14	14	15	22	**140 (27%)**
Tier 2	36	14	7	11	3	16	20	18	24	20	24	**193 (37%)**
Tier 2 LDC							2				1	**3 (0.1%)**
Tier 2 WP/DC						9	7	11	1	3	6	**37 (7%)**
Tier 3				2		4	3	3	7	2	3	**24 (5%)**
Tier 4	26	4	4	7	2	8	9	15	12	10	9	**106 (20%)**
Tier 5					1	1	1				6	**9 (2%)**
Tier 5 LDC							2				1	**3 (0.6%)**
Tier 5 RE								2	1	1	2	**6 (1%)**
Tier 5 WP/DC								1				**1 (0.1%)**
Tier 6					1			1	1	1	1	**5 (1%)**
Total	**86**	**24**	**12**	**25**	**15**	**58**	**55**	**65**	**60**	**52**	**75**	**527 (100.8%)**

Source: Audit Office compilation of Revenue data.
*Percentages do not equal 100% due to rounding.

Companies and Projects Reviewed for Report

For this report, the Audit Office identified 124 companies[7] that earned and used an Advantage Act benefit between January 1, 2006 and December 31, 2017.[8] Of the 124 companies, 114 had a single project and 10 had more than one project (9 companies had 2 projects each and 1 had 3 projects). Because of this, the report discusses 124 *companies* using benefits but 135 *projects*. This is a 71% increase in projects under companies that used benefits since the previous audit report, for which the Office reviewed 79 such projects.

Advantage Act: Numbers Used in Report

Companies

124 = Number of companies that earned benefits

- 114 companies had one project
- 10 companies had more than one project
    - 9 companies had two projects
    - 1 projects had three projects

Projects

140 = Number of projects that *earned* benefits

- **135** projects *used* benefits
    - 125 completed a qualification audit
    - 10 received property tax benefits prior to qualification

Benefits Used Before and After Qualification

For 125 of the 135 projects that have used benefits, Revenue had completed qualification audits certifying that the companies had met the job creation and investment requirements for their respective tiers.[9] For the remaining 10 projects, companies were granted property tax exemptions in advance of qualification.[10]

Benefits Earned and Benefits Used

In addition to the 135 projects that had used benefits as of December 31, 2017, there were five more projects that had earned but not yet used benefits. As of December 31, 2017, these 140 projects had *earned* $1,202,183,022 in benefits.[11] Of those projects, 135 had *used* an estimated

[7] Technically, there were 124 *taxpayers* that earned a benefit, as that is the terminology used in statute and encompasses all companies and other entities in a unitary group. However, throughout the report we use the word "company" in its place for ease of understanding.

[8] In this report, the term "used" refers to benefits that have been claimed on a tax return. In their annual reports, the Department of Revenue counts credits that are distributed to shareholders as used.

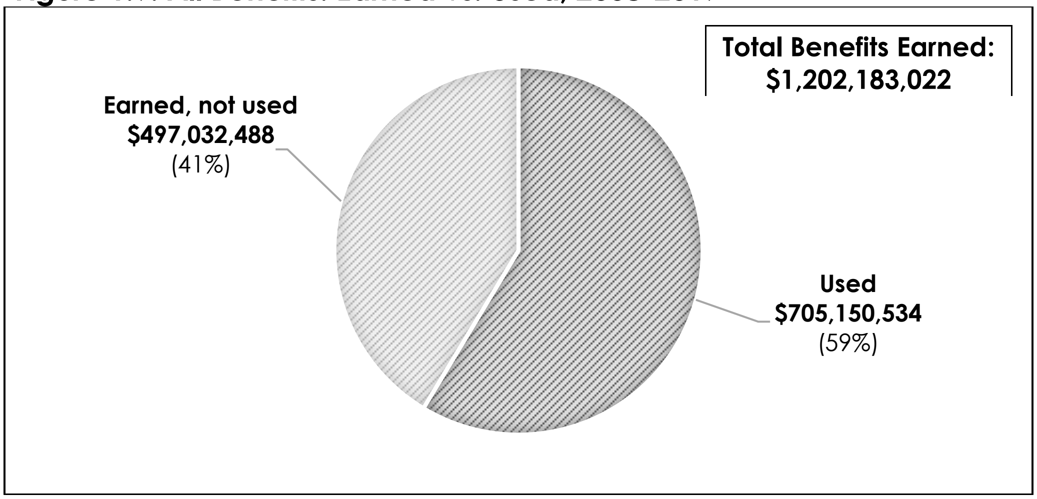
[9] Seven other projects met their job creation and investment requirements but had not used credits by the end of 2017.

[10] According to Revenue, under § 77-5725(8), a Tier 2 LDC 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 an aircraft personal property tax exemption is not required to have completed a qualification audit in order to receive an exemption for the aircraft. Additionally, in specific circumstances, Revenue 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 number of FTEs and investment have not yet been confirmed.

[11] This was the amount initially earned but the actual amount was somewhat lower due to recapture.

$705,150,534 in benefits, leaving $497,032,488 in benefits yet to be used.[12] Figure 1.9 shows this breakdown.

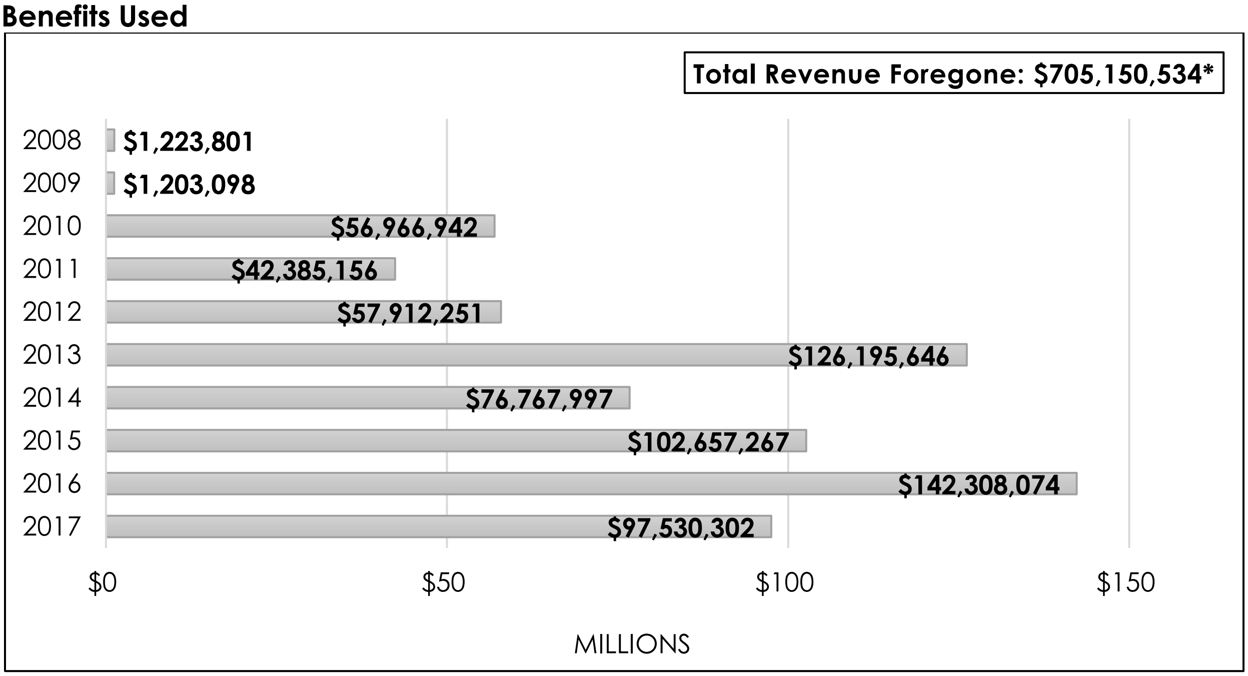
Figure 1.9. All Benefits: Earned vs. Used, 2008-2017



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

The breakdown by year of the amount of revenue foregone by the all levels of government from the use of Advantage Act benefits is shown in Figure 1.10. These numbers, as well as the total revenue foregone by just the state during this time period, are discussed in more detail in the fiscal protections metric on page 37.

Figure 1.10. Total Revenue Foregone by All Levels of Government for All Advantage Act Benefits Used



Source: Audit Office analysis of data from the Department of Revenue's tax incentives database.
Note: Some years' foregone revenue may be different from our 2016 report as Revenue regularly updates these amounts.
*All benefit numbers are exact, except personal property tax figures are estimates.

[12] All benefit numbers are exact, except personal property tax figures which are estimates.

Figure 1.11 shows the benefits earned by projects in each tier of the Advantage Act, as well as the amount of benefits used. Tier 5 had the highest percentage of benefits used, at 100%.

Figure 1.11. Advantage Act Projects Receiving Benefits: Benefits Earned vs. Used by Tier, 2008-2017

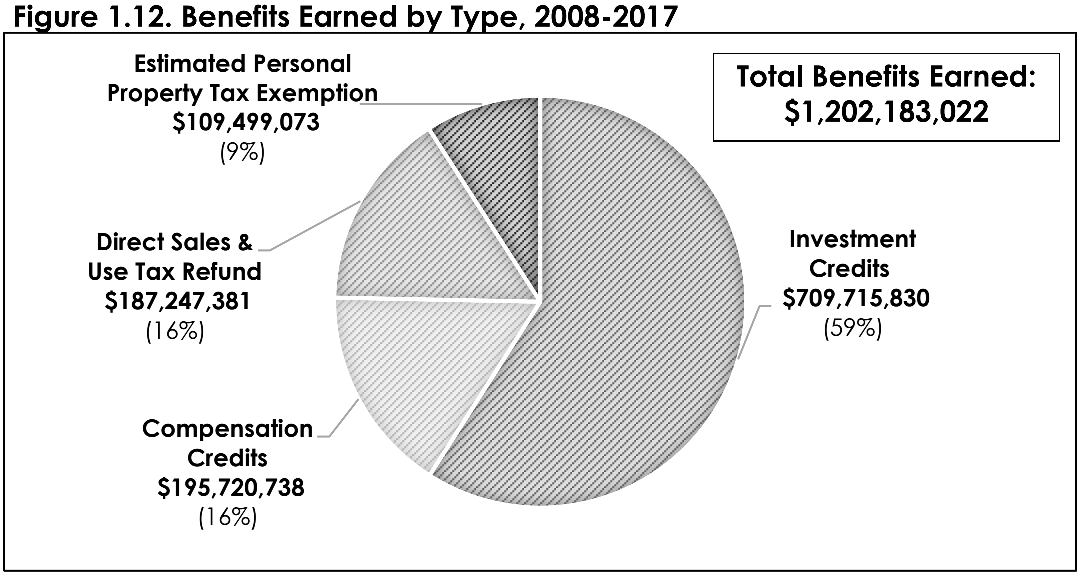
Tier	Number of Projects	Benefits Earned (Percent of Total Earned)	Number of Projects	Benefits Used (Percent of Total Used)
Tier 1	29	$23,603,048 (2%)	26	$18,692,403 (79%)
Tier 2	44	$274,091,343 (23%)	42	$189,989,519 (69%)
Tier 2 LDC, Tier 2 WP/DC*	8	$27,072,306 (2%)	8	$19,236,883 (71%)
Tier 3	8	$9,923,367 (1%)	8	$3,971,768 (40%)
Tier 4, Tier 6*	44	$824,963,339 (61%)	44	$430,730,343 (56%)
Tier 5, Tier 5 WP/DC*	4	$15,258,968 (1%)	4	$15,258,968 (100%)**
Tier 5 RE	3	$27,270,650 (10%)	3	$27,270,650 (100%)
Total	**140**	**$1,202,183,022 (100%)**	**135**	**$705,150,534 (65%)**

Source: Audit Office compilation of data from the Revenue Department's tax incentives database.
* Tiers combined to protect taxpayer confidentiality.
** Recapture not included to protect taxpayer confidentiality.
DC - data center; LDC - large data center; RE - renewable energy; WP - web portal

Benefits Used by Type

Investment credits made up more than half (59%) of the total tax credits earned by Advantage Act projects from 2008 to 2017. Compensation credits and direct sales and use tax refunds (16% each) were the next largest categories of earned benefits; personal property tax exemptions made up the remaining 9%. The dollar value of each type of earned benefits is shown in Figure 1.12 (see Appendix B for the 2016 Advantage Act audit report chart for comparison).

Figure 1.12. Benefits Earned by Type, 2008-2017



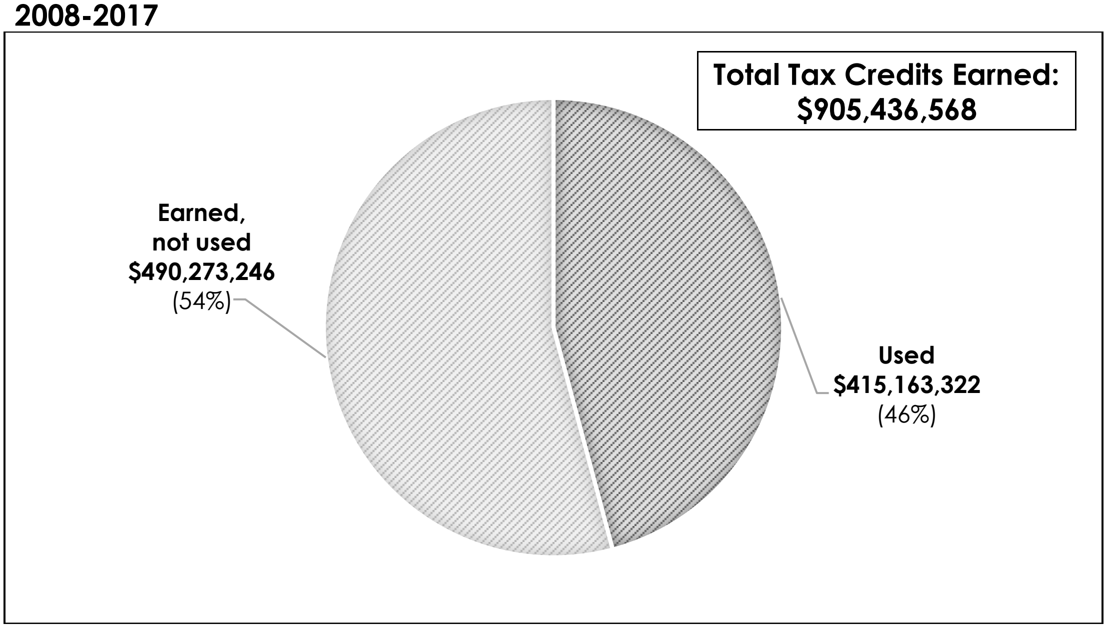
Source: Audit Office compilation of data from the Revenue Department's tax incentives database.

Investment and Compensation Tax Credits

Generally speaking, direct sales and use tax refunds and personal property tax exemptions are used in close proximity to when a project earned them, while investment and compensation tax credits may be retained and used over a number of years. This is because Advantage Act tax credits (investment and compensation credits) are statutorily authorized to be carried forward, while the Act's other benefits (sales and use tax refunds and personal property tax exemptions) are not. It is the only tax incentive program in Nebraska that authorizes tax credits to be carried forward.[13]

The projects in our population earned $709,715,830 in investment credits and $195,720,738 in compensation credits by December 31, 2017, totaling $905,436,568. Of the $905.4 million in tax credits *earned*, companies had only *used* $415,163,322, or 46% of the total. The remaining 54% is available for use in the future.[14] The two categories are shown in Figure 1.13 (again, see Appendix B for the 2016 Advantage Act audit report chart for comparison).

Figure 1.13. Investment and Compensation Tax Credits: Earned vs. Used, 2008-2017



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

[13] When nonrefundable tax credits are issued in other tax incentive programs in Nebraska, the credits must be applied against a state liability (as in the Advantage Act), but the credits expire at the end of the taxable year in which they were earned, regardless of whether the taxpayer's liability was large enough to utilize all credits. Advantage Act projects forfeit tax credits earned when they can no longer be carried forward (end of carryover is reached, the project enters recapture, etc.).
[14] This total includes any credits that have potentially expired (see footnote 13) and does not account for any recapture that may have occurred.

In addition to typically being used in close proximity to when a company earned them, direct sales and use tax refunds and personal property tax exemptions are limited in their use, while investment and compensation credits can be used by a company in several ways. Between 2008 and 2017, 37% of the tax credits used went to reduce corporate income tax. The next highest use was for employee compensation withholding, which made up 31% of the credits used. The full breakdown is shown in Figure 1.14 (see Appendix B for the 2016 Advantage Act audit report chart for comparison).

Figure 1.14. Investment and Compensation Tax Credits: How They Were Used, 2008-2017

Advantage Act Tax Credit Usage	Amount (Percent of Total)
Corporate Income Tax Reduction	$155,332,550 (37%)
Employee Compensation Withholding	$127,207,260 (31%)
Sales and Use Tax	$98,645,280 (24%)
Shareholder Income Tax*	$33,978,232 (8%)
Total	**$415,163,322 (100%)**

Source: Audit Office compilation of data from the Revenue Department's tax incentives database.
*This includes both individual and corporate shareholders.

Industry Participation

Most Advantage Act tiers allow participation by companies in multiple types of industries but some are limited to certain types of projects, like data centers. The Department of Revenue identifies the industry sector of each incented company using the North American Industry Classification System (NAICS) of numeric codes.[15] For each industry sector, Figure 1.15 shows the number of projects, the amount of benefits earned, and the amount of benefits used for the projects reviewed for this report.

[15] This system uses numeric codes of up to six digits to identify industries—fewer digits reflect broader categories and more digits reflect narrower categories.

Figure 1.15. Projects by Industry Sector: Benefits Earned vs. Used, 2008-2017

NAICS Industry Classification		Projects Reviewed (Percent of Total)	Benefits Earned (Percent of Total)	Benefits Used (Percent of Total)
22 23	Utilities* Construction*	4 (3%)	$117,173,246 (10%)	$44,247,431 (6%)
31	Manufacturing: Food, Beverage, Textiles, & Animal Products	19 (14%)	$67,753,133 (6%)	$24,824,834 (4%)
32	Manufacturing: Non-metallic Goods (Chemicals, Pharmaceuticals, & Others)	28 (20%)	$351,588,993 (29%)	$164,386,966 (23%)
33	Manufacturing: Metal, Machinery, Electronics, & Others	28 (20%)	$140,277,511 (12%)	$88,870,364 (13%)
42	Wholesale Trade	6 (4%)	$12,545,519 (1%)	$9,170,481 (1%)
48 49	Transportation: Air, Water, Trucking, Rail, Pipelines* Warehousing: Storage & Delivery*	5 (4%)	$93,435,904 (8%)	$90,059,126 (13%)
51	Information	9 (6%)	$133,573,437 (11%)	$83,155,026 (12%)
52	Finance & Insurance	17 (12%)	$238,819,071 (20%)	$166,607,813 (24%)
54	Professional, Scientific, & Technical Services	17 (12%)	$33,043,247 (3%)	$26,090,065 (4%)
56 62	Administrative & Support & Waste Management & Remediation Services* Health Care & Social Assistance*	7 (5%)	$13,972,960 (1%)	$7,738,428 (1%)
Total		**140 (100%)**	**$1,202,183,022 (101%**)**	**$705,150,534 (100%)**

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.
**Percentage does not equal 100% due to rounding.

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

This section contains the results of the Audit Office's analysis of the selected Advantage Act metrics. The individual scope questions, which include the metrics utilized to answer each question, are listed below. Note that the metric regarding how many tax credits have been issued under the Act was addressed in Section I of the report.

Scope Question: Is the Advantage Act meeting the goal of strengthening the state's economy overall by attracting new business to the state and increasing employment?

> Metric 1: How many incented companies were new to Nebraska?
>
> Metric 2: What is the range of costs, in state and local benefits, for each new full-time equivalent?

Scope Question: What are the Advantage Act's economic and fiscal impacts?

> Metric 3: What information does economic modeling provide regarding the impact of the Advantage Act?

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

> Metric 4: What is the fiscal impact of the Advantage Act's sales and use tax refunds on local governments?
>
> Metric 5: What is the fiscal impact of the Advantage Act's property tax exemptions on local governments?

Scope Question: 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?

> Metric 6: What protections are in the Advantage Act to ensure its fiscal impact does not increase beyond expectations?

Metric 1: New to Nebraska

How many incented companies were new to Nebraska?

Results

From 2008 to 2017, 13 (10%) of the 135 projects using Advantage Act benefits were under companies that were new to Nebraska, an increase of 4 projects since the 2016 Advantage Act report.

State statute defines a company as "new" to the state when a person or unitary group did not pay income taxes or wages in the state more than two years prior to submitting an application to an incentive program.[16] The Audit Office (Office) found thirteen Advantage Act (Act) projects under companies that met the new to Nebraska definition from 2008 to 2017. This is an increase of four projects under companies that were new to Nebraska since the 2016 Advantage Act audit report, which found nine projects under companies that met the definition at that time.

The small number of companies meeting the new to Nebraska definition is consistent with the site selection research, which suggests that economic development incentives are not among the most important factors influencing a company's location decisions.[17]

Methodology/Discussion

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

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

[16] Neb. Rev. Stat. § 50-1209(4)(f).

[17] 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. Geraldine Gambale, "30th Annual Survey of Corporate Executives: Cautious Optimism Reflected," *Area Development Magazine*, Q1 2016.

Metric 2: 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 each of the new full-time equivalents (FTEs) attributed to the Advantage Act cost the state between $7,440 and $208,559 *per year they existed.* The wide variance in the cost comes from the use of different assumptions in the analysis.**

Of the 135 projects using benefits reviewed for this report, 70 (52%) met our criteria for this analysis.[18] Our cost per FTE-year estimates take two factors into account: which of the earned benefits are included in the cost side of the equation and how many of the FTEs created are attributed solely to the Act.

Regarding which benefits to include, the Audit Office is required to use the two benefit calculations utilized in our 2016 audit report: one using compensation credits plus the minimum investment credits required to qualify and one using compensation credits plus all investment.

The second factor is whether all of the FTEs claimed by the program should be included in our estimates, as it is unlikely that all new FTEs were created solely as a result of the Advantage Act.[19] This is commonly referred to as the "but for" question. Based on subject matter literature, we present estimates using FTE attribution of 12% and 25%, along with 100% for comparison, as 100% attribution is not supported by the research or subject matter experts.

Taking these factors into account, we provide six estimates for the cost per FTE-year. One FTE-year equates to one FTE in the program, for one year. Think of it as a stand-alone unit that counts every FTE *each year* it is present (a detailed discussion of our methodology for this metric, including the attributable FTE percentages used, begins on page 23). In addition, we present estimates for cost per FTE-year by tier.

The Office also provides a cost per FTE-year estimate in Metric 3 in this section, utilizing results from economic modeling. For a description of how these estimates differ, please see page 28.

[18] We explain how these projects were selected in the methodology section for this metric on page 23.
[19] Research indicates that attributing all new FTEs to any incentive is an overestimation of the incentive's impact. Timothy J. Bartik, "'But For' Percentages for Economic Development Incentives: What percentage estimates are plausible based on the research literature?" Upjohn Institute Working Paper, 18-289, 2018.

Average Cost per Full-time Equivalent Estimates

Method 1: Average Minimum Annual Cost of One FTE for One Year

For our first method, we consider the minimum annual cost for each FTE under the Act. This estimate includes all compensation credits, which are earned based on FTE creation, and the minimum required levels for all other benefits (investment credits, sales and use tax refunds, and personal property tax exemptions). The minimum investment credits required to qualify are used because a project must meet both the employment and investment levels required in order to receive any benefits.

For this calculation, the Audit Office had to make some assumptions. First, based on conversations with the Department of Revenue, we assume that 90% of earned compensation credits will be used. Second, we only include 90% of the *minimum required investment credits earned*.[20] This assumption only includes the investment credits that a project *must* earn to qualify. Finally, we assume that investment and employment are separate goals but of equal importance under the Advantage Act. Therefore, we attribute 50% of both the sales and use tax refunds and personal property tax exemptions to each goal. These assumptions are summarized in Figure 2.1.

Figure 2.1. Average Minimum Annual Cost of One FTE for One Year Assumptions

Benefit	Percentage of Earned Benefit Calculated in Estimate	Explanation
Compensation Credits	90% of total earned	Projects may not end up using all of the credits they earned. Amounts subject to recapture were removed.
Investment Credits	90% of **minimum required** investment credits earned	We use the minimum required levels of investment credits because a project must meet minimum levels in order to earn and use any benefits.
Sales and Use Tax Refund	**50%** of total used	If investment and employment are equal goals, then attributing 50% of these benefits to each goal is fair.
Personal Property Tax Exemption		

Source: Legislative Audit Office.

Having estimated the benefits earned by the 70 projects used in this analysis, we then estimated the number of FTEs created that could reasonably be attributed solely to the Advantage Act benefits the companies received. For example, 100% attribution assumes that *all* FTEs reported by Advantage Act projects were created because the project received the Advantage Act incentive–that is, none would have occurred without it. As noted earlier, we provide three attribution rates: 12%, 25%, and 100%.

[20] See Appendix C for calculations of minimum required investment.

Using these rates, the minimum annual cost for one FTE for each year it was present varies from $7,440 to $61,998. The results for the minimum annual cost for one FTE calculation are shown in Figure 2.2.

Figure 2.2. Average Minimum Annual Cost of One FTE for One Year

FTEs Attributable	"But For" Assumption		
	12%	**25%**	**100%**
Cost per FTE-year	$61,998	$29,759	$7,440

Source: Audit Office analysis of Department of Revenue data.

Method 2: Average Maximum Annual Cost of One FTE for One Year

In our second method, we consider the maximum annual cost for each FTE under the Act. The logic here assumes that employment is the main goal of the program and investment is a strategy to support it. As shown in Figure 2.3, this estimate again uses 90% of the earned compensation credits. However, it includes a larger proportion of the investment credits and sales and use and personal property tax benefits.

For this calculation, the only assumption we make is that projects likely will not use all of their compensation and investment credits. To account for this, we include 90% of the totals of both compensation and investment credits earned.

Figure 2.3. Average Maximum Annual Cost of One FTE for One Year Assumptions

Benefit	Percentage of Earned Benefit Calculated in Estimate	Explanation
Compensation Credits	90% of total earned	Projects may not end up using all of the credits they earned. Amounts subject to recapture were removed.
Investment Credits	90% of **total earned**	Projects may not end up using all of the credits they earned. Amounts subject to recapture were removed.
Sales and Use Tax Refund	**100%** of total used	If employment is the main goal, then it is fair to include 100% of both benefits to the calculation.
Personal Property Tax Exemption		

Source: Legislative Audit Office.

Following are the results of the maximum annual cost for one FTE. Within this calculation, we again assume three attribution rates for FTEs: 12%, 25%, and 100%. As can be seen in Figure 2.4, the maximum annual cost for one FTE for each year it was present also varies greatly, from $25,027 to $208,559.

Figure 2.4. Average Maximum Annual Cost of One FTE for One Year

FTEs Attributable	"But For" Assumption		
	12%	**25%**	**100%**
Cost per FTE-year	$208,559	$100,109	$25,027

Source: Audit Office analysis of Department of Revenue data.

Analysis of the Annual Cost of One Full-time Equivalent by Tier

For this report, we had enough data to compare the cost per FTE-year by tier, something we were unable to do in the 2016 report. In this report, we estimate the cost, by tier, for both the minimum and maximum costs per FTE.

For the minimum annual cost of one FTE calculation, Tier 3 had the lowest cost per FTE-year at all attribution rates, shown in green in Figure 2.5, whereas Tier 4 had the highest across all attribution rates, shown in red.

Figure 2.5. Average Minimum Annual Cost of One FTE for One Program Year, by Tier, 2008-2017

Advantage Act Tier	FTEs Attributable			Number of Projects
	12%	25%	100%	
Tier 1	$40,300	$19,345	$4,836	14
Tier 2	$48,442	$23,254	$5,813	26
Tier 3	$32,342	$15,526	$3,881	5
Tier 4	$94,175	$45,202	$11,301	25
Average	**$61,998**	**$29,759**	**$7,440**	**70**

Source: Audit Office analysis of Department of Revenue data.

For the maximum annual cost of one FTE calculation, shown in Figure 2.6, Tier 3 again had the lowest average cost per FTE-year at all attribution rates, again shown in green, and Tier 4 had the highest, in red.[21]

Figure 2.6. Average Maximum Annual Cost of One FTE for One Program Year, by Tier, 2008-2017

Advantage Act Tier	FTEs Attributable			Number of Projects
	12%	25%	100%	
Tier 1	$108,975	$52,308	$13,077	14
Tier 2	$161,850	$77,688	$19,422	26
Tier 3	$32,342	$15,524	$3,881	5
Tier 4	$348,150	$167,112	$41,778	25
Average	**$208,559**	**$100,109**	**$25,027**	**70**

Source: Audit Office analysis of Department of Revenue data.

There are programmatic reasons why costs for both Tiers 3 and 4 differ so much from the average. Tier 3 has no investment requirement, so the cost does not include investment credits. As investment credits are the highest percentage of benefits earned (62%) within this population, it makes sense that Tier 3 has the lowest cost per FTE-year, since it does not offer investment credits. Similarly, Tier 4 is the only tier included in this analysis that contains the personal property tax exemption, and 14 Tier 4 projects were included in this analysis (see selection criteria for this analysis below).

[21] Tier 3 is the same number for both average minimum and maximum annual costs per FTE because it only includes compensation credits–it has no investment requirement, sales and use tax refund, or personal property tax exemption available to participants.

Methodology/Discussion

As in 2016, due to data limitations, we answered a slightly different question than the one asked by the 2014 LR 444 Committee. The Committee asked: What is the cost, in state and local Advantage Act benefits, per job created? However, we could not calculate a cost per *job* because no state agency tracks jobs. Revenue does not have data on the actual positions created by incented companies. Instead, they maintain a job-related database using the Advantage Act's job creation requirements, where a job is defined as a full-time equivalent, equal to 2,080 work hours in one year. An incented project 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. As Revenue is not required to track positions, nor are projects required to report on positions, we have no data available. Instead, we utilized what the Act requires Revenue to track–FTEs.

Cost Estimate

We estimated the cost for one FTE for one year using employment and earned benefits data from 70 projects. The 70 projects were selected for this analysis based on several factors:

1. Each project had passed its qualification audit;
2. Each project had an "end of entitlement" date no later than 12/31/2017;
3. Each project had earned some tax benefits from the program prior to 12/31/2017; and
4. Each project had a net positive number of full-time equivalents.

Benefits Earned

Within our population of 70 projects, four tiers are represented: 1, 2, 3, and 4. Tier 4 is the only tier that qualifies for a personal property tax exemption (Tier 2 data centers also qualify, but there are no Tier 2 data centers in our population). The earned benefits for the 70 projects in this analysis are shown in Figure 2.7.

Figure 2.7. Earned Benefit Information for Projects in the Cost per FTE-year Analysis

Benefits Earned*	Amount (Percent of Total)
Investment Credit	$568,424,008 (62%)
Compensation Credit	$153,169,379 (17%)
Direct Sales and Use Tax Refund	$113,722,274 (12%)
Estimated Personal Property Tax Exemption	$86,270,026 (9%)
Total	**$921,585,687** (100%)**

Source: Audit Office compilation of Department of Revenue data.
*The total benefits earned is the maximum usage. It is unlikely that all 70 companies will have the tax liability to use all earned credits.
**This total is less recapture.

Once the earned benefits from 2008 to 2017 had been obtained for our population, we needed to estimate usage, as some projects still had time under their Advantage Act agreements to use their benefits. In order to do so, we spoke with the Department of Revenue and determined that 90% usage of both investment and employment credits is likely.[22] Direct sales and use tax refunds and personal property tax exemptions are assumed to both be utilized in full, apart from methodologies undertaken by the Office described below.

Other Considerations

We note that there is some risk of overestimation in the total number of FTEs for each project. The Department of Revenue verifies the FTEs claimed by projects in order to qualify for the Advantage Act, but not all projects are subject to additional audits after the Qualification Audit. That means it is possible that in later reports, companies could overstate the number of FTEs at the project. However, we believe this risk is relatively low because the department reviews project FTE claims and investigates 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 at a project, if discovered, would have to repay the benefits earned on any FTEs that could not be confirmed by the department.

Cost per FTE-year Calculation

When a company applies for benefits under the Advantage Act, the Department of Revenue establishes what is known as a "base year". The base year is specific to each project and counts the employment in the year prior to the application year as the basis for which all subsequent (future) employment is compared. For each project in our population, we counted every FTE in every year that was *in addition to* the number of FTEs established in the base year.[23] Once the number of FTE-years attributable to a project is determined, it is divided into the total benefits earned by that project to obtain a cost per FTE-year.

We provide an example in Figure 2.8 that shows how the cost per FTE-year would be calculated for theoretical project in Tier 1, which requires $1 million of new investment and 10 new jobs. In the example, the project has five years to attain the minimum required investment and employment levels. Our example assumes a successful attainment period and highlights the entitlement period, where benefits are used and also where new benefits can be earned on additional employment and investment. It also assumes that the project has successfully passed the qualification audit.

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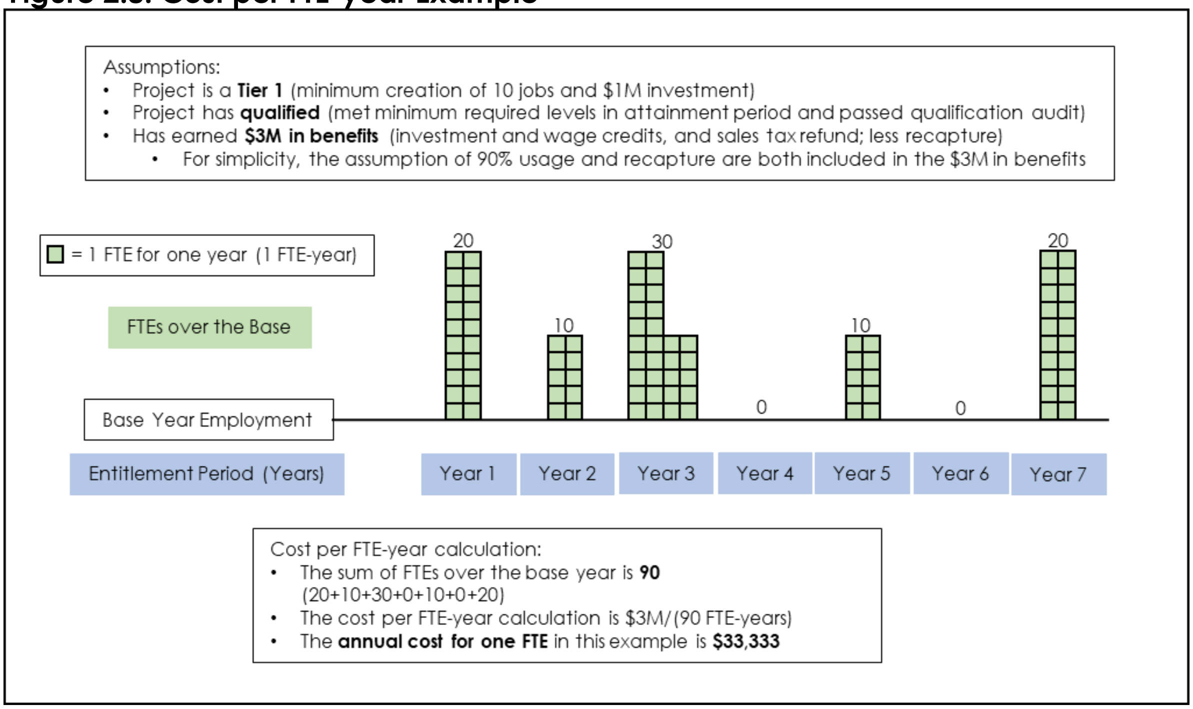
[22] All 70 projects in this analysis had earned the maximum amount of compensation and investment tax credits possible, however, Tier 4 projects may still be eligible to earn additional personal property tax exemptions. The personal property tax exemption is eligible for 10 years and its end of entitlement date is separate from the end of entitlement date for the investment and compensation credits.
[23] Years in which a project had some FTEs but the number was below the required minimum level required by its respective tier are not included because the project was in recapture and therefore not earning benefits on those FTEs.

The theoretical project in Figure 2.8 met the required employment levels in years 1, 2, 3, 5, and 7 of its entitlement period. It did not meet levels in years 4 and 6, which means that in those two years, no benefits are earned *and* all other benefits earned in years 1, 2, 3, 5, and 7 were reduced, due to recapture, by 2/7.

To count the number of FTE-years, we sum the years where levels were met, over the base year. As shown, the sum of FTEs over the base is 90 and the cost per FTE-year calculation is simply $3,000,000 (in total benefits, less recapture and assuming 90% usage) divided by 90 FTE-years. Therefore, in this example, each FTE for every year it exists costs $33,333.

Figure 2.8. Cost per FTE-year Example



Source: Legislative Audit Office.

Full-time Equivalents Attributable to the Advantage Act

Academic studies and subject matter experts, including the Revenue Department and the Legislative Fiscal Office, acknowledge that some of the FTEs created by incentivized companies would have been created even without the companies' participation in the Advantage Act.[24] This is referred to as the "but for" question: How many of the FTEs would not have been created but for the incentive the company received? However, debate remains over *how many* of the FTEs can be reasonably be attributed to an incentive program.

[24] Bartik, "'But For' Percentages for Economic Development Incentives: What percentage estimates are plausible based on the research literature?" Upjohn Institute Working Paper, 18-289, 2018. For the Revenue Department's acknowledgement of this point, see *Nebraska Tax Incentives 2017 Annual Report to the Legislature*, July 13, 2018, p. 63. The Director of the Fiscal Office stated that Office's position during discussions with audit staff during the audit.

In our 2016 report, we presented two numbers: one for 100% attribution of FTEs to the Advantage Act and the other for 25% attribution. The 100% attribution rate assumes that *all* new FTEs reported by Advantage Act projects were created because of the incentive itself–that is, none of the jobs would have occurred without it. The 25% attribution rate assumes that only ¼ of the FTEs reported by incented projects occurred *because of* the incentive.

For this report, we have additional academic literature from which we can base our assumptions. In a 2018 report, a leading economic development incentives evaluation expert presents a review of estimated "but for" percentages from 34 studies of economic development incentives. The average estimated "but for" percentage across the 34 studies was 23.2% and the median estimate was 12.7%.[25] We also present a 100% level for comparison, but evidence suggests the lower percentages are more plausible estimates of the program effects. Using this new information, we present three attribution, or "but for," numbers: 12%, 25%, and 100%.[26]

Comparison to 2016 Report

As noted, we included a third FTE attribution rate in this report compared to our 2016 report. This current report also uses a slightly different cost per FTE-year calculation method than that used in the 2016 audit report. In that report, we modified some calculations to reflect concerns raised by Revenue, that some projects would never have the tax liability to use their earned credits fully (or even 90%). For those projects (of which we were unable to provide industry sectors or even the number we modified due to confidentiality concerns), we put their usage at 50% for their earned tax credits. In this report, we did not estimate any project's usage below 90%. Because of this, we do not provide a comparison to the 2016 audit report, as the two methodologies differ slightly, so they should not be compared directly.

[25] Bartik, "'But For' Percentages for Economic Development Incentives: What percentage estimates are plausible based on the research literature?" Upjohn Institute Working Paper, 18-289, 2018.
[26] We present estimates of 25% and 12%, which are slightly different from what Bartik presented. We do so because, in our 2016 audit report, we calculated 25% and, for the sake of consistency, we continued to use 25% for this report. We use 12% (instead of rounding up to 13%) so we do not underestimate the "but for" effect at the low end of the range.

Metric 3: Economic Modeling Results

What information does economic modeling provide regarding the impact of the Advantage Act?

Results

> **Using the REMI economic modeling program, we estimated that the Advantage Act was responsible for between 6,829 and 136,688 job-years in the state economy from 2008 to 2017. In that time, companies used an estimated $705,150,534 in benefits. These estimates show a cost range for one job for one year of $5,159 to $103,252. Due to limitations of the REMI software license used in this simulation, the Office was unable to address additional metrics.**

Economic modeling software provides another way of estimating job creation and costs per job. The Audit Committee has been consistently interested in how such software could add to tax incentives evaluations, however, for technical reasons we were unable to incorporate it into our evaluations until this audit. To conduct the estimates in this section, the Audit Office worked with the Legislative Fiscal Office, which owns licenses for the Regional Economic Models, Inc. (REMI) software, and consulted with REMI staff.

In general terms, the REMI software allows a user to increase or decrease the amounts of specific economic variables and estimate the effects those changes will have on the economy. The inputs used for our simulation were based on:

- All benefits used by Advantage Act companies;
- FTEs that earned credit; and
- Total wages for credit earning FTEs.

For each year between 2008 and 2017, we used REMI to estimate of the number of job years that would have existed if the Advantage Act had not been passed in 2006 and, instead, the foregone revenue from the Advantage Act benefits had remained in the state budget. In other words, REMI compared the estimated number of job years from a simulated state economy that did not include the Advantage Act to the actual job years that were in the economy using FTEs and wages reported to Revenue by companies participating in the Advantage Act each year.

For the reasons discussed in the previous section, subject matter experts, including Revenue and the Legislative Fiscal Office, acknowledge that some of the FTEs created by incentivized companies would have been created even without the companies' participation in the Advantage Act.[27] We used academic research to find reasonable

[27] Bartik, "'But For' Percentages for Economic Development Incentives: What percentage estimates are plausible based on the research literature?" Upjohn Institute Working Paper, 18-289, 2018. For the Revenue Department's acknowledgement of this point, see *Nebraska Tax Incentives 2017 Annual Report*

bounds for our "but for" assumptions, which attribute 12% and 25% of increased FTEs and wages to the Advantage Act. We also present a 100% level for comparison but again note that evidence suggests the lower percentages are more plausible estimates of the program effects.

In the 25% "but for" simulation, for the evaluation period of 2008-2017, the REMI simulation calculated that the Act was responsible for an estimated total employment of 26,037 job years. That is, the simulation estimates that the Act induced 26,037 jobs that existed for one year in the state's economy. This accounts for both direct jobs created by participating companies as well as the Act's effect on jobs throughout the rest of the state's economy. Total employment includes both full-time and part-time jobs.[28]

In the 12% "but for" simulation, REMI calculated that the Act was responsible for an estimated total employment of 6,829 job years. As a comparison, a 100% simulation was also run, which estimated the state would have seen 136,688 additional job-years.

Cost per Job-year

After running simulations with REMI for all three "but for" assumptions, we have estimated total job year increases for each scenario. We are able to use these estimates along with the total revenue foregone by the Act to make cost-per-job year estimates.

The total revenue foregone between 2008 and 2017 was $705,150,534, which includes actual compensation and investment credit use, actual sales and use tax and estimated personal property tax benefits. Each of the job-year results was then divided into $705,150,534, resulting in a cost per job per year range of $5,159 (at 100%) to $103,252 (at 12%), as shown in Figure 2.9.

Figure 2.9. Results from REMI Economic Modeling

"But For" Assumption	Number of Job-years	All Benefits Used	Cost per Job-year
12%	6,829	$705,150,534	$103,252
25%	26,037		$27,083
100%	136,688		$5,159

Source: Legislative Audit Office using outputs from REMI economic modeling.

Using all benefits in this analysis is similar to our use of maximum benefits in the previous cost per FTE analysis in Metric 2, and a comparison of the results is shown in Figure 2.10.[29] However, it is important to note that the two results tell us different things about the job years created. The cost per FTE-year estimates reflect the jobs reported to Revenue by participating companies, meaning the jobs directly related to the incentive. In contrast,

to the Legislature, July 13, 2018, p. 63. The Director of the Fiscal Office stated that Office's position during discussions with audit staff during the audit.

[28] This differs from the results in Metric 2, Cost per FTE, because it includes *both* full-time and part-time employment as a result of the incentive. Cost per FTE only includes full-time equivalents (2,080 work hours in one year).

[29] We were unable using REMI to estimate a cost per job year using the minimum benefits.

the REMI simulation estimates the broader impact the Act has on the economy of the state, which includes direct jobs as well as secondary impacts such as the effect on jobs in competing companies and the effect on companies that support those that are incented.

Figure 2.10. Metric 2 and Metric 3 Cost per Job-year Comparison

"But For" Assumption	Metric 2 Maximum Cost per FTE-year Estimate	REMI Cost per Job-year Estimate
12%	$208,559	$103,252
25%	$100,109	$27,083
100%	$25,027	$5,159

Source: Legislative Audit Office using outputs from REMI economic modeling.

REMI Software

We were able to use REMI PI+ software that was under contract through the Legislative Fiscal Office for this evaluation. However, we were not able to address all of the LR 444 Committee's metrics that require modeling. As REMI PI+ is not able to produce results related to state revenue, it is not ideal for modeling the corporate income tax. REMI does have a version, Tax-PI, that can run those kinds of simulations, but it is a more expensive license. Additionally, the Audit Office was not comfortable making assumptions about the Advantage Act that are necessary in order to simulate alternative policies that look to have long term benefits such as increases in education and infrastructure funding.

Methodology/Discussion

The Legislative Audit Office worked with the Legislative Fiscal Office and REMI support staff to determine the appropriate updates and inputs to use for this simulation. Details about updates, inputs, and complete results of our analyses can be found in Appendix D.

LR 444 Modeling Recommendations

In the LR 444 Tax Incentive Evaluation Committee's final report, 4 of the 19 identified metrics for evaluation had the potential to be addressed through economic modeling. They were:

- How many net new full time jobs did incentivized companies create?
- How much state revenue did the creation of an incentivized job create?
- Did incentivized companies create more or fewer full-time jobs during a certain time period than would likely have been created under alternative policies, including, but not limited to, elimination of the corporate income tax, investments in education funding, and investments in roads and other infrastructure.
- How does the total cost of the incentives (tax revenue foregone) compare to the total benefit of the incentives (tax revenue increased)?

As discussed above, due to limitations of the REMI software license used in this simulation, the Office was unable to address all of the LR 444 Tax Incentive Evaluation Committee's metrics.

Metric 4: Local Impact—Sales and Use Tax

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

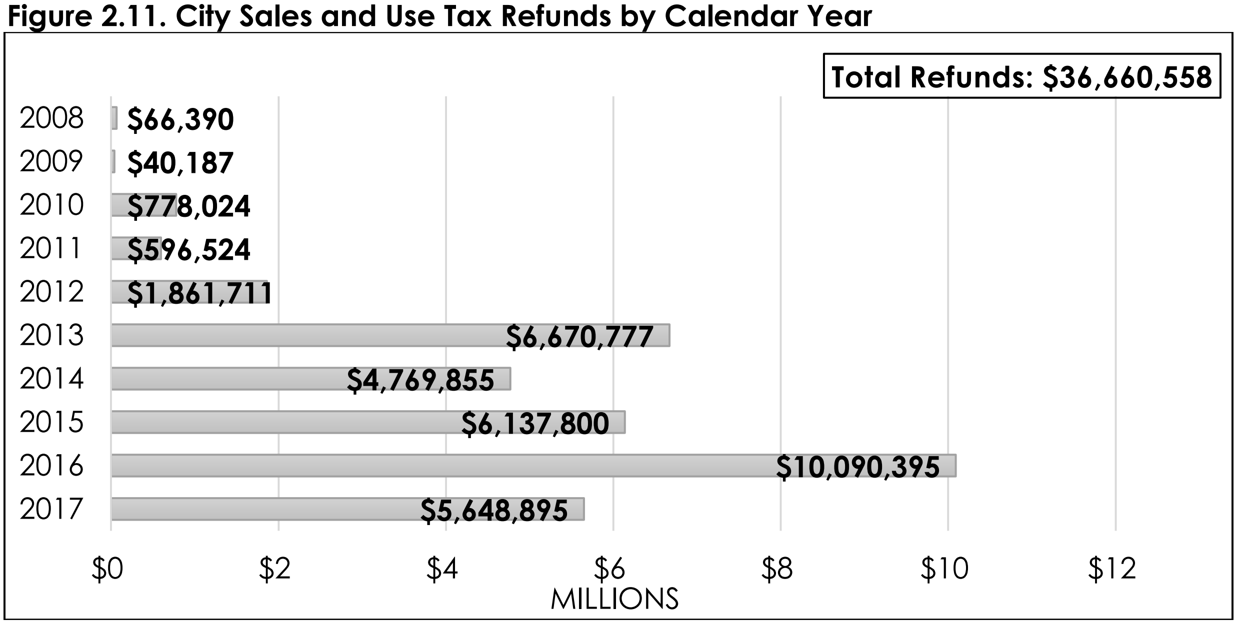
Results

> **Between 2008 and 2017, projects in our population earned a total of nearly $36.7 million in Advantage Act refunds of local sales and use taxes. The refunds resulted in a revenue loss of nearly $36.7 million to the Nebraska cities in which the sales occurred.**

For this evaluation, we were unable to report the city sales and use tax refunds by individual city, as that information was not available due to the short timeframe of the audit. The reports that generate the *total* city sales and use tax refunds by year, however, are more easily obtained from the Advantage Act database.

From 2008 to 2017, city sales and use tax refunds totaled nearly $36.7 million before recapture.[30] As shown in Figure 2.11, the year with the largest refund was 2016, where cities refunded just over $10 million to Advantage Act projects.

Figure 2.11. City Sales and Use Tax Refunds by Calendar Year



Source: Audit Office analysis of Department of Revenue data.
*Recapture not included.

[30] For city level breakdowns of sales and use tax refunds through 2014, see our 2016 Advantage Act audit report. Detailed information on recapture amounts relative to local sales and uses taxes through 2017 will be available along with the city level analysis in the potential subsequent Advantage Act report.

Methodology/Discussion

Nebraska has a mandatory state sales and use tax and cities have the option of establishing a local sales and use tax in addition to the state's tax. We analyzed only the local sales and use 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 and use tax direct refund and 2) revenue lost due to tax credits used by participating companies to reduce their sales and use tax liability. Figure 2.12 shows which tiers include each of these benefits.

Figure 2.12. Tiers with Sales and Use Tax Refunds

Tier	Usage	
	Direct Refund (Percentage Allowed)	**Tax 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 2017 Annual Report to the Nebraska Legislature*.

Metric 5: Local Impact—Property Tax

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

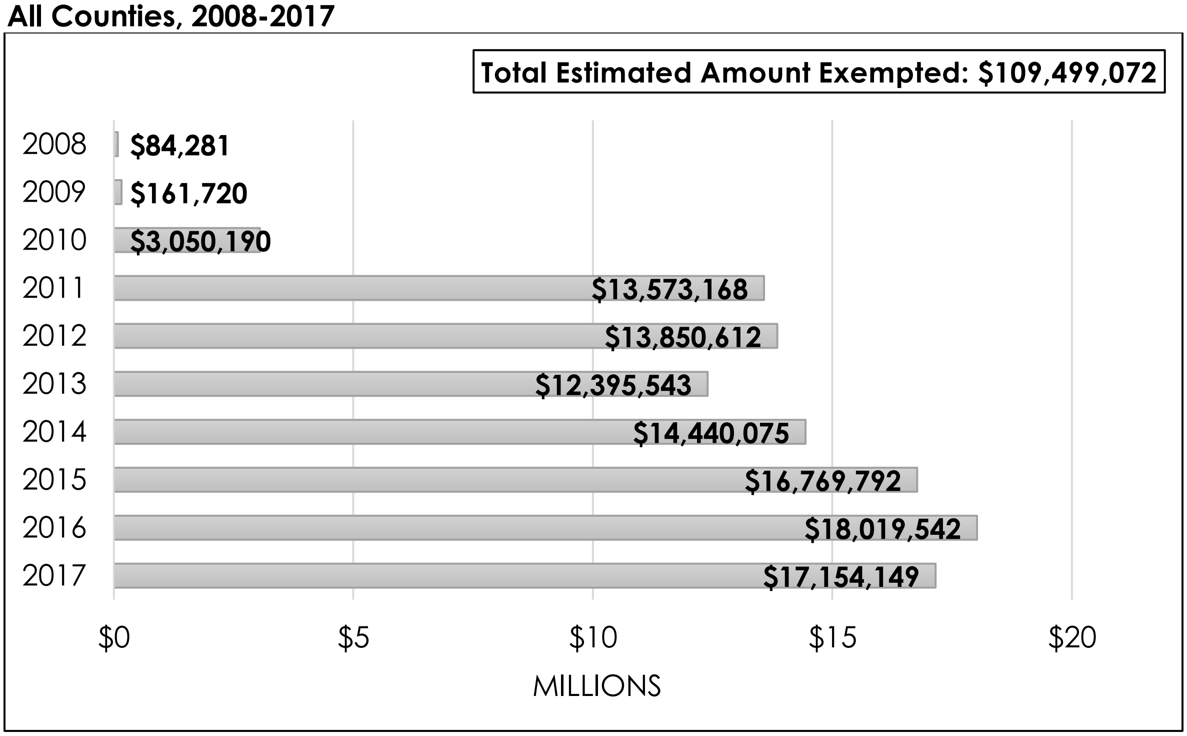
Results

> **Nine counties in the state had personal property exempted from taxation due to the Advantage Act from 2008 to 2017. The exemption was claimed by 27 projects and totaled an estimated $109,499,072.**

As discussed in Section I, estimated personal property tax exemptions account for 9% of the total benefits earned for the 140 projects in our population. The average estimated personal property tax exemption earned by the 27 recipients in our population is over $4.05 million.

As shown in Figure 2.13, the year with the highest amount of estimated personal property tax exempted was 2016, where just over $18 million. As there is more data compared to our 2016 audit report, we can start to see a trend. The last three years (2015, 2016, and 2017) account for nearly 50% of total personal property tax exemptions for the life of the Advantage Act (estimated to be nearly $52 million, or 47.4% of the total).

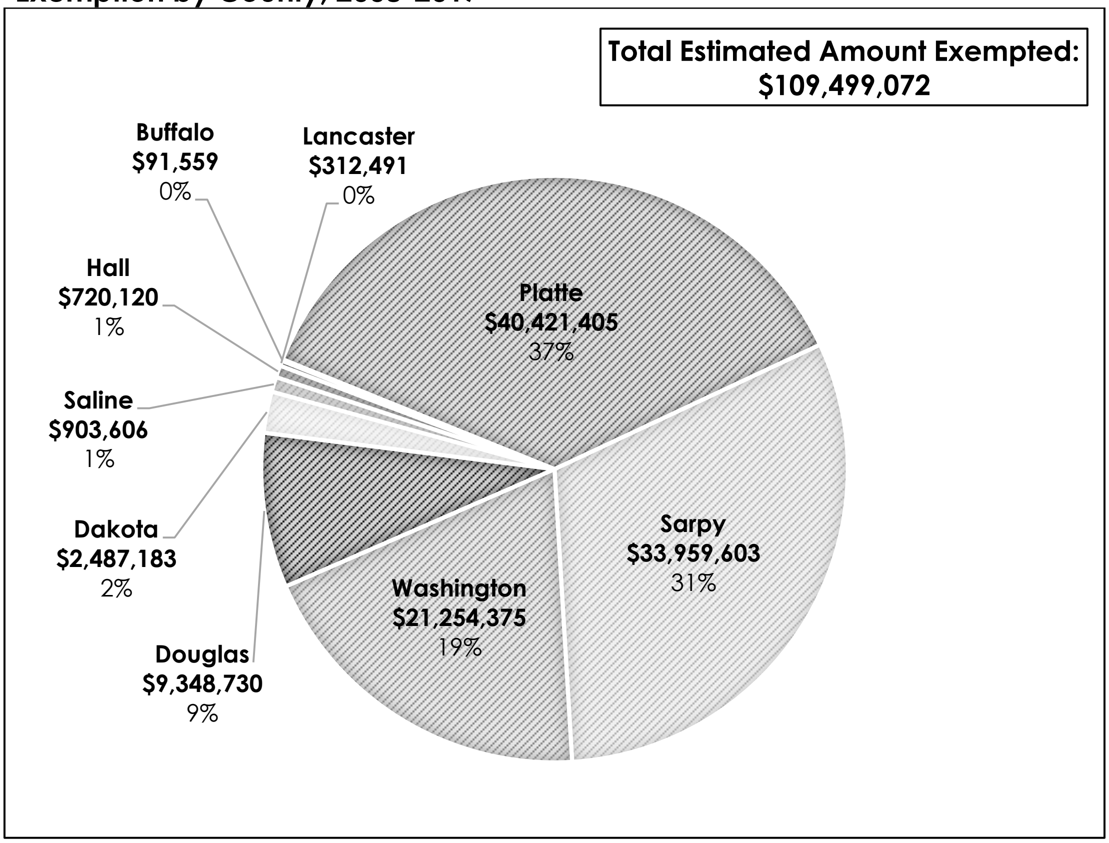
Figure 2.13. Estimated Amount of Advantage Act Personal Property Tax Exemption, All Counties, 2008-2017



Source: Audit Office analysis of Department of Revenue data.

Platte County continued to have the largest estimated amount exempted due to the Advantage Act, at nearly $40.4 million (37% of the total amount exempted), as shown in Figure 2.14. Sarpy County had the second highest total exempted at $34 million, followed by Washington County at $21.3 million.

Figure 2.14. Estimated Amount of Advantage Act Personal Property Tax Exemption by County, 2008-2017



Source: Audit Office analysis of Revenue Department data.

As in our 2016 report, Platte County continued to have the largest estimated percentage of Advantage Act exemptions at 6.9%. As shown in Figure 2.15, the estimated exemptions in six of the nine counties represented totaled less than 1% of the total taxes collected in each respective county.

Figure 2.15. Estimated Personal Property Tax Exemptions as a Percentage of Total Taxes Collected by County, 2008-2017

County	Total Taxes Collected	Estimated Advantage Act Exemption	Estimated Exemptions as a Percent of Total Taxes Collected
Platte	$583,285,008	$40,421,405	6.9%
Washington	$454,201,306	$21,254,375	4.7%
Sarpy	$2,690,718,664	$33,959,603	1.3%
Dakota	$274,141,777	$2,487,183	0.9%
Saline	$281,473,782	$903,606	0.3%
Douglas	$8,493,022,441	$9,348,730	0.1%
Hall	$869,779,659	$720,120	0.1%
Lancaster	$4,138,012,926	$312,491	0.01%
Buffalo	$784,800,920	$91,559	0.01%
Total	**$18,569,436,483**	**$109,499,072**	**0.6%**

Source: Audit Office analysis of Department of Revenue data.

Property taxes support multiple political subdivisions. Although the Office did not look at the impact of individual projects on political subdivisions, we were able to estimate the impact by utilizing percentage estimates from the Department of Revenue's Property Tax Division's annual reports. Between 2008 and 2017, the largest impact of the Advantage Act exemption was on school districts, which lost the highest proportion ($65.8 million, or 60% of the estimated total exempted), followed by counties ($17.4 million or 16%), and cities/villages ($10.8 million or 10%). The full breakdown is shown in Figure 2.16.

Figure 2.16. Impact of Estimated Amount of Advantage Act Personal Property Tax Exemptions on Political Subdivisions, 2008-2017

Political Subdivision	Estimated Amount Exempted (Percent of Total)
School Districts	$65,797,992 (60.09%)
County	$17,399,403 (15.89%)
City or Village	$10,763,759 (9.83%)
Community College	$6,066,249 (5.54%)
Miscellaneous Districts	$4,445,662 (4.06%)
Natural Resource Districts	$2,124,282 (1.94%)
Fire Districts	$1,445,388 (1.32%)
Educational Service Units	$974,542 (0.89%)
Townships	$470,846 (0.43%)
Total	**$109,488,123 (99.99%*)**

Source: Audit Office analysis of Revenue Department data.

*We used the exact percentages given in the Property Tax Division's annual reports, which totaled 99.99%. Because we didn't round, the estimated amount exempted came out 0.01% smaller than the actual amount estimated.

Estimated personal property tax exemptions due to the Advantage Act increased 90% from the 2016 audit report (using data from 2008 to 2014) to the current report (data from 2008 to 2017). From 2015 to 2017, estimated exemptions increased by nearly $50 million. Douglas County had the largest relative increase, at 304%, followed by Sarpy County at 184% and Saline County at 133%. Figure 2.17 shows the totals for each report and the increase in the amount of personal property tax exempted by county.

Figure 2.17. Estimated Personal Property Tax Exemptions Comparison: 2016 Report to Current Report

County	2016 Report		Current Report		Increase in Amount Exempted
	Amount	Percent of Total	Amount	Percent of Total	
Platte	$29,074,061	51%	$40,421,405	37%	+39%
Sarpy	$11,945,839	21%	$33,959,603	31%	+184%
Washington	$13,589,122	24%	$21,254,375	19%	+56%
Douglas	$2,315,832	4%	$9,348,730	9%	+304%
Dakota	$0	0	$2,487,183	2%	n/a
Saline	$388,244	0.7%	$903,606	0.8%	+133%
Hall	$0	0	$720,120	0.7%	n/a
Lancaster	$150,531	0.3%	$312,491	0.3%	+108%
Buffalo	$91,559	0.2%	$91,559	0.01%	n/a
Total	**$57,555,189**		**$109,499,072**		**+90%**

Source: Audit Office analysis of Department of Revenue data.

Methodology/Discussion

The Audit Office identified the estimated value of personal property exempted and the county in which it was located from claims data contained in the Department of Revenue's Advantage Act database. We then 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 the Department of Revenue's Property Tax Division.

As the Office was on a tight timeframe for this audit, we did not attempt to identify the specific political subdivisions where each project is located. While some accuracy is lost by not identifying each project's actual taxable rate and instead using a countywide average, it still represents a close estimate as to the actual amount exempted.

Projects 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, instead 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.

Metric 6: Fiscal Protections

What protections are in the Advantage Act to ensure the fiscal impact does not increase beyond 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 could have prevented the program from increasing substantially beyond the state's expectations.**

Comparing the Advantage Act to recommendations from The Pew Charitable Trusts, shown in Figure 2.18, we found that the Advantage Act has several recommended fiscal protections in place.[31] It does not, however, cap how much the program can cost each year or require lawmakers to pay for incentives through budget appropriations, which could have prevented the program from increasing beyond expectations.

Figure 2.18. Pew Report Fiscal Protection Recommendations

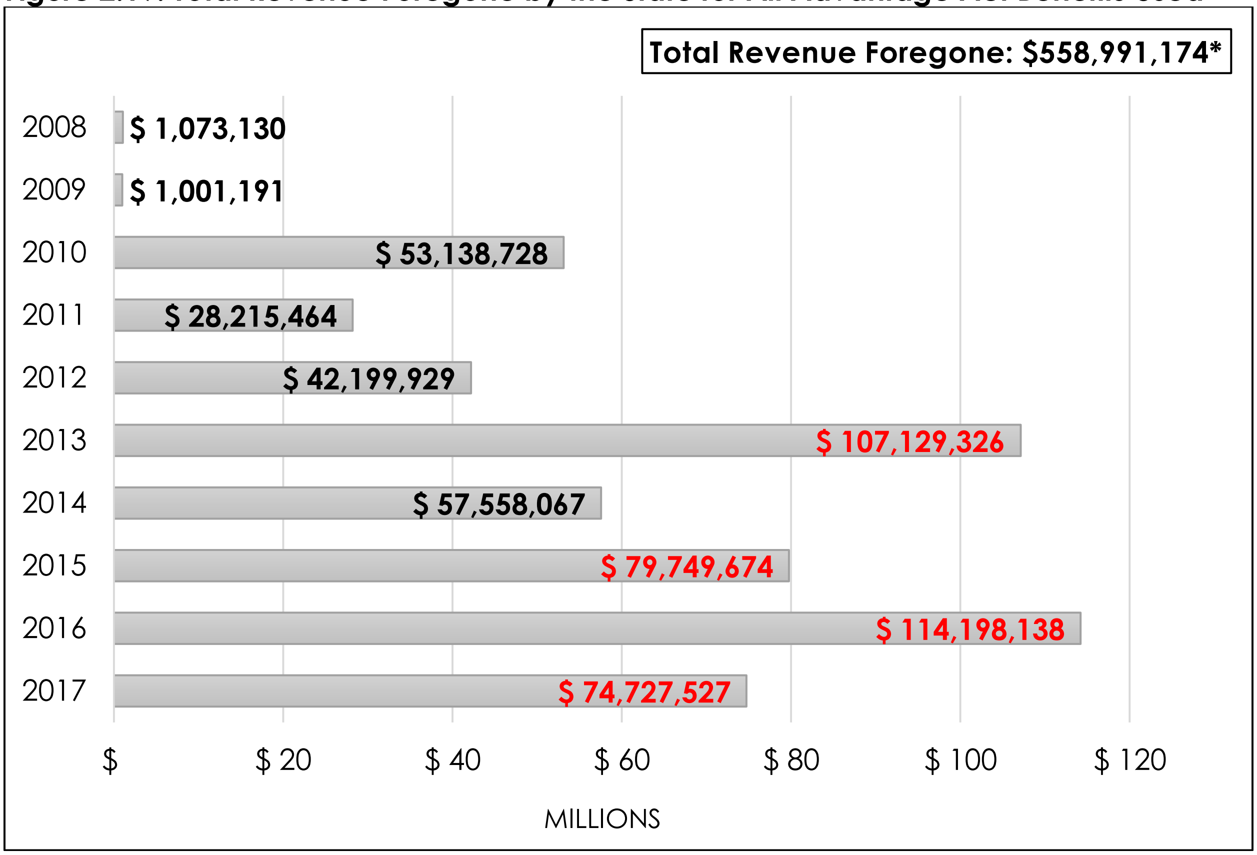
Pew Report Recommendations	Advantage Act	Audit Office Remarks
Gather and share high-quality data on the costs of incentives by:		
Regularly forecast the cost	**Yes**	
Monitor costs and commitments of large and high-risk programs	**Yes**	
Share timely information on incentives across relevant agencies	**Partial**	
Design incentives in ways that reduce fiscal risk, including:		
Capping how much program can cost each year	**No**	
Controlling the timing of incentive redemptions	**Partial**	Exists for sales and use 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 report.

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

Annual revenue foregone by the state due to the Advantage Act has exceeded the Legislature's original expectations of $24 to $60 million per year in four of the last five calendar years, shown in red in Figure 2.19.[32] The Department of Revenue estimates that by 2027, the cumulative amount of foregone state revenue will be more than $997 million.[33] That estimate factors in new projects being approved between 2015 and 2027.

Figure 2.19. Total Revenue Foregone by the State for All Advantage Act Benefits Used

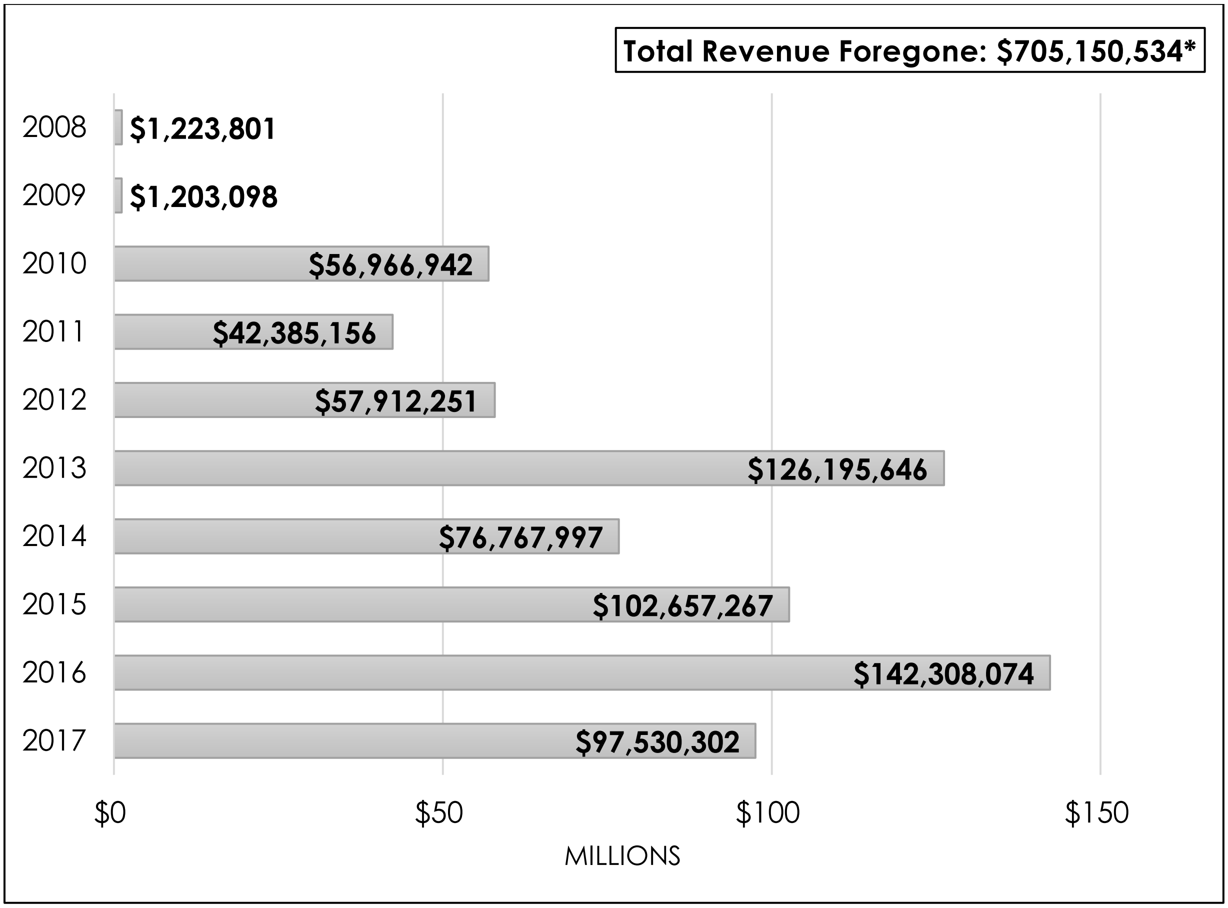


Source: Audit Office analysis of data from the Department of Revenue's tax incentives database.
Note: Some years' foregone revenue may be different from our 2016 report as Revenue regularly updates these amounts.
*City Sales and Use recapture not included.

When we add the revenue foregone by local governments due to the Act to revenue foregone by the state, the total fiscal impact of the Advantage Act is higher, increasing from $559 million to $705.15 million, as shown in Figure 2.20.

[32] 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.
[33] Nebraska Department of Revenue, *Nebraska Tax Incentives 2017 Annual Report to the Nebraska Legislature*, p. 52.

Figure 2.20. Total Revenue Foregone by All Levels of Government for All Advantage Act Benefits Used



Source: Audit Office analysis of data from the Department of Revenue's tax incentives database.
Note: Some years' foregone revenue may be different from our 2016 report as Revenue regularly updates these amounts.
*All benefit numbers are exact, except personal property tax figures are estimates.

Methodology/Discussion

We compared The Pew Charitable Trusts' recommendations with the legislative history of LB 312 (2005), which created the Advantage Act. Foregone revenue amounts are from the Revenue Department's tax incentives database.

APPENDIX A: Metrics Not Included in this Report

Metrics in the following table, which are from the LR444 (2014) Interim Study Report or statute, are not included in this report. To the extent possible, these metrics will be used in the second report that is anticipated to be completed later this year.

Figure A.1. Tax Incentive Metrics

From (LR444 Final Report Number)	Description
LR444 (1)	New jobs created by incented companies
LR444 (2)	Number of incented employees who filed for unemployment insurance within two years after starting incented jobs
LR444 (3)	Number of incented employees who filed for unemployment insurance in the year prior to starting incented jobs
LR444 (5)	Revenue generated (economic modeling)
LR444 (6)	Counterfactuals (economic modeling)
LR444 (7)	Job growth in incented companies compared to non-incented companies
LR444 (8)	Investment by incented companies
LR444 (9)	Average wages paid by incented companies compared to industry averages
LR444 (10)	Number of incented jobs that provided health benefits
LR444 (11)	Number of incented jobs that provided other benefits
LR444 (12)	Cost/benefit (economic modeling)
LR444 (13)	Cost for agencies to administer & promote Advantage Act
LR444 (14)	Cost for businesses to apply for Advantage Act benefits
LR444 (15)	Jobs created in distressed areas of the state
LR444 (16)	Education required for new jobs compared to education levels in distressed areas
LR444 (17)	Patents
LR444 (18)	Other state financial assistance received by incented companies
LR444 (19)	Do incented businesses stay in Nebraska longer than others?
Statute	Number of high tech businesses
Statute	Number of businesses defined as in a renewable energy field
Statute	Estimated amount of property tax exempted from each county because of the Advantage Act (using county average rates)
Statute	Sales and use taxes forgone by each city impacted by the Advantage Act

Source: Legislative Audit Office.

APPENDIX B: Benefits Comparisons with 2016 Advantage Act Audit Report

Figure B.1 shows the breakdown of benefits earned by type from our 2016 audit report. Figure B.2 is the same breakdown for the current report, which is included in Section I as Figure 1.12 on page 13.

Figure B.1. Benefits Earned by Type, 2008-2014

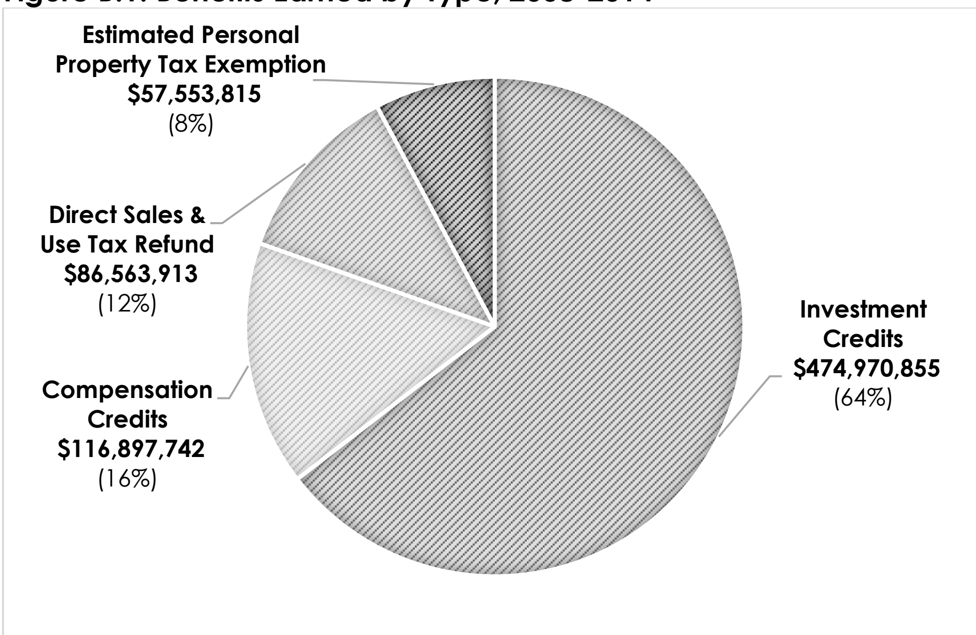
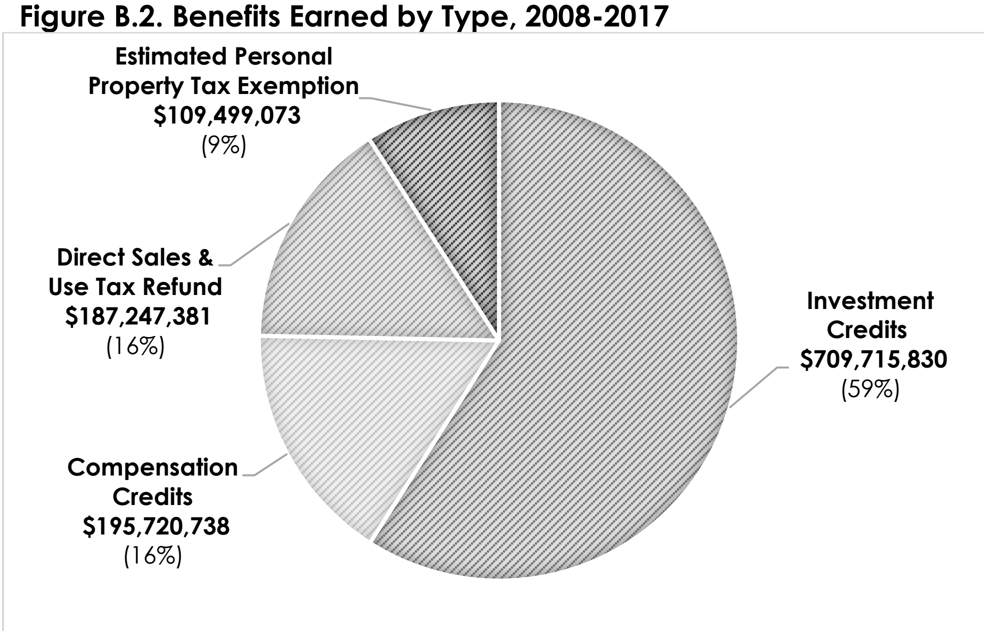


Figure B.2. Benefits Earned by Type, 2008-2017



Source for Figures B.1 & B.2: Audit Office compilation of data from the Revenue Department's tax incentives database.

Figure B.3 shows the breakdown of investment and compensation credits earned versus used from our 2016 audit report. Figure B.4 is the same breakdown for the current report, which is included in Section I as Figure 1.13 on page 14.

Figure B.3. Investment and Compensation Credits Earned vs. Used, 2008-2014

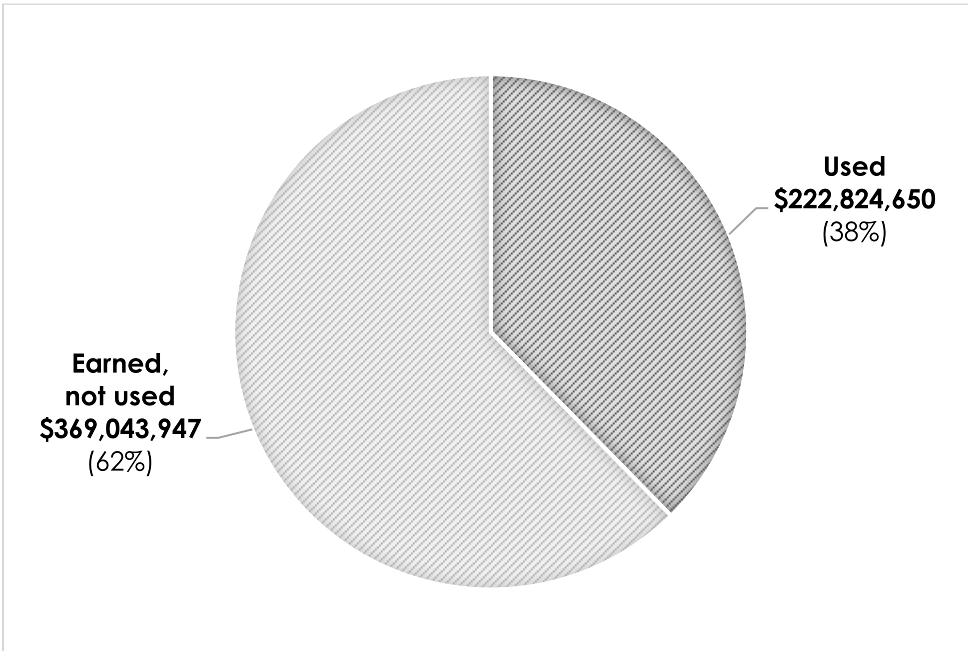
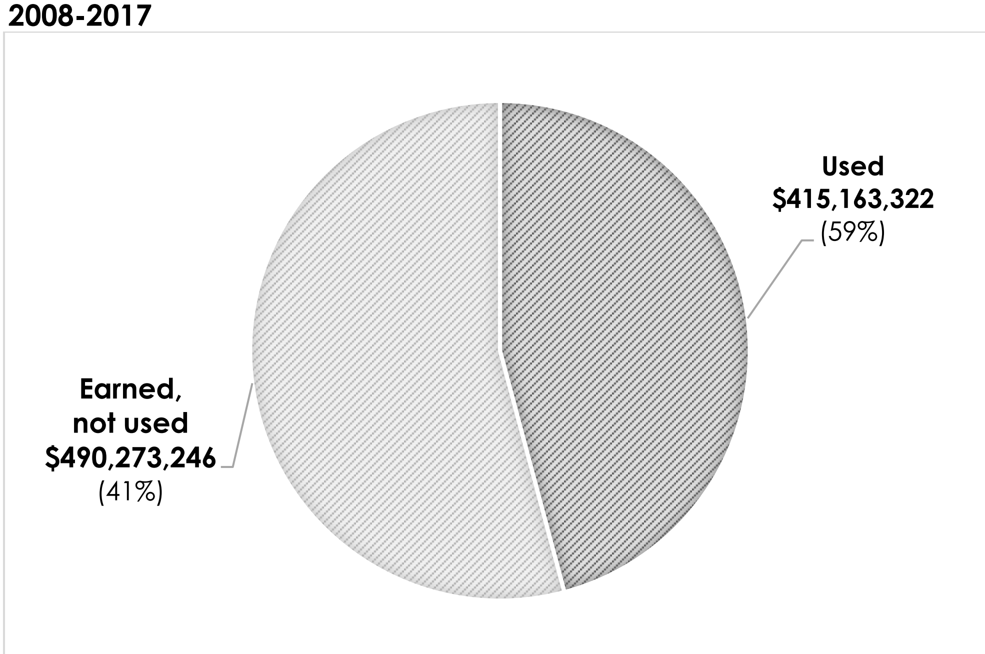


Figure B.4. Investment and Compensation Credits Earned vs. Used, 2008-2017



Source for Figures B.3 & B.4: Audit Office compilation of data from the Revenue Department's tax incentives database.

Figure B.5 shows the numbers from our 2016 audit report regarding how investment and compensation tax credits were used; Figure B.6 has the same numbers from our current report, which is included as Figure 1.14 in Section I on page 15.

Figure B.5. Investment and Compensation Tax Credits: How They Were Used, 2008-2014

Advantage Act Tax Credit Usage	Amount (Percent of Total)
Corporate Income Tax Reduction	$114,258,864 (51%)
Employee Compensation Withholding	$ 67,185,565 (30%)
Sales and Use Tax	$ 28,301,482 (13%)
Shareholder Income Tax	$ 13,078,739 (6%)
Total	**$222,824,650 (100%)**

Figure B.6. Investment and Compensation Tax Credits: How They Were Used, 2008-2017

Advantage Act Tax Credit Usage	Amount (Percent of Total)
Corporate Income Tax Reduction	$155,332,550 (37%)
Employee Compensation Withholding	$127,207,260 (31%)
Sales and Use Tax	$98,645,280 (24%)
Shareholder Income Tax*	$33,978,232 (8%)
Total	**$415,163,322 (100%)**

Source for Figure B.5 & B.6: Audit Office compilation of data from the Revenue Department's tax incentives database.
*This includes both individual and corporate shareholders.

APPENDIX C: Minimum Required Investment for Cost per Full-time Equivalent Metric

Figure C.1 shows the calculations used to obtain the minimum required investment credits a project must earn, based on tier, in order to receive benefits. Any investment over the required minimum level earns additional credit.

Figure C.1. Advantage Act Minimum Required Investment Credits Earned to Qualify by Tier

Tier	Minimum Required Investment	Percentage Earned on Investment	Calculation	Minimum Required Investment Credits Earned
1	$1,000,000	3%	0.9 * $1,000,000 * 0.03	$27,000
2	$3,000,000	10%	0.9 * $3,000,000 * 0.1	$270,000
3	$0*	N/A	N/A	N/A
4	$10,000,000	10%	0.9 * $10,000,000 * 0.1	$900,000

Source: Legislative Audit Office.
*Tier 3 requires no investment, only job creation.
Note: the minimum required investment credits earned is the minimum amount of investment credit a project must earn to qualify, based on tier.

APPENDIX D: REMI Economic Modeling

REMI Model Customized Changes

In order to get the model to tell us what may have happened in the past, we have to update much of the information that it uses in its formulas. We take historical data, provided by the model itself, and bring it in line with its forecasting period. The REMI PI+ v2.1.2 model that was used begins forecasting in 2016. In the baseline version, all information on the economy from 2001 to 2015 is historical data, and 2016 onward are estimates for forecasting purposes.

In order to fit our needs, relevant historical data regarding population, employment and wages were copied from 2008 onward (the years beyond 2015 are REMI's baseline forecasts for those variables), and pasted beginning in 2016. This was done through REMI's population update, employment update, and amending the total wages in the regional control. Basically, we moved the historical information into the forecasting years so we could have a more accurate version of what the state's economy looked like in the past in order to run our simulation.

All customizations were suggested by REMI staff, in order to best accomplish what we are trying to do with the model.

Inputs

In general terms, the REMI economic forecasting model allows a user to increase or decrease the amounts of specific economic variables and estimate the effects those changes will have on the economy. The inputs used for our simulation were based on:

- All benefits used by Advantage Act companies;
- FTEs that earned credit; and
- Total wages for credit earning FTEs.

Benefits

Benefits used by Advantage Act companies were found by using several sources of data in the Department of Revenue's Advantage Act database. Credit Histories, Personal Property Tax filing data, individual shareholder credit use filing data, and FTE filing data were combined to create a single excel file for analysis. Information related to county average personal property tax rates were added to facilitate estimation of property tax exemption benefits. NAICS codes at the 2, 3, and 4 digit level were added to all records based on the project's business code in the database. An approval year column, based on the approval dates in the database was added to all transactions that did not already have one provided.

The following data was used to generate yearly benefits information for use in REMI simulations.

- Credits used on Income Taxes
- Credits used on Sales and Use taxes
- Direct Sales and Use tax refunds (State foregone and city foregone)
- Credits used by shareholders on individual income tax returns
- Estimated total personal property tax benefits
- Recapture payments (subtracted from total benefits)

Pivot tables were used to organize this data by approval year and 4 digit NAICS code.

Benefits are simulated in the model by adjusting the cost of production. The logic is that companies see taxes as one of the various costs of doing business. So a reduction in taxes would be a reduction in costs. Since we are trying to see what the economy may have looked like without the incentive, we need to increase the cost of production in the evaluation period.

On the advice of REMI staff, we attempted to subtract benefits that were associated with FTE increases. This was to avoid double counting the employment impact. The design of the incentive does not allow us to know exactly how much credit that was used was from compensation credits. We estimated these amounts by finding the total credits earned and calculating the percentage that was not compensation credit. We then reduced the total benefit amounts for each industry based on that percentage. The adjusted benefit was simulated as an increase in production costs by that amount.

Full-time Equivalents

Companies that participate in a tier with a jobs component are required to provide the number of FTEs generated that are above their baseline every year. This is our proxy for direct employment increase. Tier 5 companies are not required to generate new employment, and therefore do not report new FTEs. Tier 5 company benefits are included in this analysis, however, because they still use benefits, and those benefits will affect the results. Additionally, all participating companies have the potential to increase employment that doesn't qualify for FTE credit, either within the project or outside of it, which are not reported to Revenue.

Total FTEs above the baseline are summed for each year by 4- digit NAICS code. FTEs are simulated in the model by adjusting industry employment (Exogenous Production). Since we are trying to simulate what the economy would have looked like without the incentive, we input the employment as a negative.

Wage Adjustment

The REMI program uses average industry sector wages in its calculations. In order to provide a more accurate representation of the effect on the economy of the incentivized employment, we need to include a wage adjustment. This means finding the wages paid to incentivized employees, and comparing them to the average wages in their sector.

Companies are required to include the average wages earned by the FTEs they claim. For each year, each company's average wage was multiplied by the total reported FTEs above the baseline. This gives us the total wages paid to employees who qualified for benefits.

We then take Nebraska's average wage in the sector (provided in the REMI model) and multiply it by the number of incentivized employees. This gives us what the total wages would be if all of the incentivized FTE had earned the sector's average wage. We compare this to the total wages actually paid. The difference, either positive or negative, is found for all relevant industry sectors by year. Since we are simulating what the economy may have looked like without the incentive, we make all of the positive differences negative, and all of the negative differences positive before we put them in the model.

Total wages are aggregated for each year by 4- digit NAICS Code. The wage adjustments are entered in to the model through the Wage Bill variable.

NAICS Code Reconciliation

REMI PI+ uses a 70 industry sector system to divide up the economy based on a variety of 2, 3 and 4 digit NAICS codes. In order to reconcile the 4 digit codes found in the incentive database with the variety of codes used by REMI, net benefit amounts, FTEs and total wages were aggregated according to how REMI groups NAICS codes together.

"But For" Adjustments

Academics who study tax incentives, and practitioners within the Department of Revenue and the Legislative Fiscal office, all agree that tax incentives cannot be assumed to have induced all of the economic activity associated with participating companies. The question that must be addressed in any sound economic impact simulation is not if companies would have created some jobs anyway, but how many? Research by economist Tim Bartik of the Upjohn Institute shows that a reasonable range of assumptions would allow tax incentives to take credit for about 12%-25% of increased economic activity. That is, about 12%-25% of economic activity would not have happened "but for" the incentive. To adjust for these "but for" estimates, three separate simulations were run. One simulation credits the incentive with generating an implausible 100% of the increase in FTEs and total wages that credit receiving companies produced. The other two simulations are run assuming the incentive is responsible for 25% and 12% of increased FTEs and their total wages. We present the results for all three simulations, but strongly encourage the use of the 25% and 12% results as the range of plausible results.

State Budget Variables

Our simulations do not inject or remove money from the state's economy. Instead, they attempt to see what would have happened if the foregone revenue that had been used by companies to reduce their taxes was instead used in state and local budgets. To simulate what may have happened if the companies had not received benefits, the total amount of benefits used by companies are input in the model as an increase to their costs of production. Since we are simulating what would have happened if the state had used that money in its budget instead, the total amount of benefits used by companies are also input as an increase in the amounts of other variables.

Where possible, state spending was simulated as increased sales in representative industries. Those variables include Construction, K-12 Spending, higher education spending, health care and social assistance spending. These variables were chosen with assistance from REMI staff. When an appropriate private sector analogue was not found, the generalized state or local government spending variable was used.

To determine the amount of increased sales or government spending to put into each variable, Biennial Budget Reports from 2008-2017 were analyzed. Each budget document provides the appropriations provided for each major spending item such as Medicaid, State aid to Schools, and the University/State Colleges. The percentage of the budget that each item represented was found. For example, in the 2016 budget, 21.6% of the fiscal year 2016-17 budget was allocated to State aid to schools (TEEOSA). The total revenue foregone by the state due to the Advantage Act in 2016 was $114,198,138. So for this item, 21.6% of the foregone revenue that would have been available for the state budget in 2016 ($24,666,798) was input into the model as increased industry sales in elementary and secondary education.

Local Budget Variables

The Advantage Act impacts local budgets as well as the state budget, so their foregone revenue is included as well. The total revenue foregone due to local option sales and use tax refunds and the estimated amount of foregone personal property taxes were input as an increase in local government spending.

REMI RESULTS

Figure D.1. REMI 12% "But for" Results

1/31/2019											
2019 AA Simulation - Jan 31.rwb											
12% But for Results compared to Regional Control 1 - Difference											
Region = Nebraska											
Browser											
PI+ Nebraska v2.1.2 (Build 4568)											
Category	**Units**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**
Total Employment	**Thousands (Jobs)**	-0.040	-0.275	0.344	-0.600	-1.387	-0.539	-1.463	-0.697	-0.576	-1.596
Private Non-farm Employment	**Thousands (Jobs)**	-0.042	-0.260	0.214	-0.746	-1.492	-0.775	-1.574	-0.898	-0.895	-1.752
Residence Adjusted Employment	**Thousands**	-0.039	-0.266	0.334	-0.585	-1.342	-0.522	-1.420	-0.682	-0.576	-1.560
Population	**Thousands**	-0.012	-0.092	0.058	-0.142	-0.533	-0.555	-0.897	-0.910	-0.909	-1.227
Labor Force	**Thousands**	-0.010	-0.071	0.048	-0.110	-0.370	-0.339	-0.542	-0.543	-0.534	-0.720
Gross Domestic Product	**Billions of Fixed (2009) Dollars**	-0.003	-0.034	-0.052	-0.117	-0.231	-0.199	-0.242	-0.151	-0.175	-0.216
Output	**Billions of Fixed (2009) Dollars**	-0.008	-0.066	-0.122	-0.237	-0.453	-0.435	-0.494	-0.340	-0.406	-0.457
Value Added	**Billions of Fixed (2009) Dollars**	-0.003	-0.034	-0.052	-0.117	-0.231	-0.199	-0.242	-0.151	-0.175	-0.216
Personal Income	**Billions of Current Dollars**	-0.002	-0.016	0.001	-0.041	-0.100	-0.078	-0.123	-0.085	-0.142	-0.202
Disposable Personal Income	**Billions of Current Dollars**	-0.002	-0.014	0.001	-0.036	-0.087	-0.068	-0.108	-0.075	-0.124	-0.177
PCE-Price Index	**2009=100 (Nation)**	0.000	0.000	0.001	0.007	0.001	0.007	0.007	0.011	0.029	0.017

The figures shown above represent what REMI estimates the Nebraska economy would have looked if the Advantage Act didn't exist, and the benefits used by companies were instead used in state and local budgets. For example, the -0.040 for total employment in 2008 means that in this scenario, REMI estimates the Advantage Act was responsible for 40 full and part-time Nebraska jobs in 2008.

Figure D.2. REMI 25% "But for" Results

1/31/2019											
2019 AA Simulation - Jan 31.rwb											
25% But for Results compared to Regional Control 1 - Difference											
Region = Nebraska											
Browser											
PI+ Nebraska v2.1.2 (Build 4568)											
Category	**Units**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**
Total Employment	Thousands (Jobs)	-0.111	-0.600	-0.685	-2.111	-4.081	-3.619	-4.280	-2.989	-3.234	-4.326
Private Non-Farm Employment	Thousands (Jobs)	-0.110	-0.564	-0.743	-2.134	-3.968	-3.575	-4.089	-2.915	-3.267	-4.195
Residence Adjusted Employment	Thousands	-0.107	-0.581	-0.660	-2.043	-3.943	-3.494	-4.141	-2.904	-3.160	-4.215
Population	Thousands	-0.033	-0.205	-0.323	-0.870	-1.909	-2.559	-3.306	-3.465	-3.711	-4.237
Labor Force	Thousands	-0.027	-0.158	-0.243	-0.638	-1.296	-1.563	-1.987	-2.062	-2.176	-2.470
Gross Domestic Product	Billions of Fixed (2009) Dollars	-0.008	-0.072	-0.170	-0.283	-0.534	-0.524	-0.552	-0.376	-0.445	-0.475
Output	Billions of Fixed (2009) Dollars	-0.019	-0.140	-0.351	-0.553	-1.021	-1.071	-1.096	-0.791	-0.957	-0.976
Value Added	Billions of Fixed (2009) Dollars	-0.008	-0.072	-0.170	-0.283	-0.534	-0.524	-0.552	-0.376	-0.445	-0.475
Personal Income	Billions of Current Dollars	-0.006	-0.034	-0.056	-0.132	-0.273	-0.293	-0.341	-0.278	-0.426	-0.503
Disposable Personal Income	Billions of Current Dollars	-0.005	-0.030	-0.049	-0.116	-0.239	-0.257	-0.299	-0.245	-0.374	-0.441
PCE-Price Index	2009=100 (Nation)	0.000	-0.001	-0.002	-0.001	-0.012	-0.015	-0.017	-0.013	0.008	-0.007

The figures shown above represent what REMI estimates the Nebraska economy would have looked if the Advantage Act didn't exist, and the benefits used by companies were instead used in state and local budgets. For example, the -0.111 for total employment in 2008 means that in this scenario, REMI estimates the Advantage Act was responsible for 111 full and part-time Nebraska jobs in 2008.

Figure D.3. REMI 100% "But for" Results

1/31/2019											
2019 AA Simulation - Jan 31.rwb											
100% But for Results compared to Regional Control 1 - Difference											
Region = Nebraska											
Browser											
PI+ Nebraska v2.1.2 (Build 4568)											
Category	**Units**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**
Total Employment	**Thousands (Jobs)**	-0.522	-2.476	-6.624	-10.821	-19.614	-21.320	-20.496	-16.186	-18.560	-20.069
Private Non-Farm Employment	**Thousands (Jobs)**	-0.503	-2.314	-6.259	-10.135	-18.248	-19.672	-18.573	-14.533	-16.947	-18.284
Residence Adjusted Employment	**Thousands**	-0.505	-2.395	-6.399	-10.449	-18.945	-20.576	-19.807	-15.693	-18.055	-19.528
Population	**Thousands**	-0.151	-0.857	-2.519	-5.029	-9.827	-13.940	-17.048	-18.081	-19.777	-21.524
Labor Force	**Thousands**	-0.123	-0.660	-1.928	-3.673	-6.636	-8.834	-10.254	-10.751	-11.595	-12.521
Gross Domestic Product	**Billions of Fixed (2009) Dollars**	-0.037	-0.292	-0.851	-1.242	-2.283	-2.392	-2.340	-1.671	-2.004	-1.972
Output	**Billions of Fixed (2009) Dollars**	-0.080	-0.567	-1.672	-2.372	-4.302	-4.734	-4.564	-3.393	-4.135	-3.966
Value Added	**Billions of Fixed (2009) Dollars**	-0.037	-0.292	-0.851	-1.242	-2.283	-2.392	-2.340	-1.671	-2.004	-1.972
Personal Income	**Billions of Current Dollars**	-0.025	-0.140	-0.387	-0.657	-1.270	-1.517	-1.590	-1.388	-2.063	-2.234
Disposable Personal Income	**Billions of Current Dollars**	-0.022	-0.122	-0.338	-0.576	-1.113	-1.332	-1.398	-1.223	-1.812	-1.962
PCE-Price Index	**2009=100 (Nation)**	-0.001	-0.006	-0.022	-0.050	-0.091	-0.142	-0.161	-0.152	-0.119	-0.145

The figures shown above represent what REMI estimates the Nebraska economy would have looked if the Advantage Act didn't exist, and the benefits used by companies were instead used in state and local budgets. For example, the -0.522 for total employment in 2008 means that in this scenario, REMI estimates the Advantage Act was responsible for 522 full and part-time Nebraska jobs in 2008.

III. Agency Response and Fiscal Analyst's Opinion

NEBRASKA

Good Life. Great Service.

DEPARTMENT OF REVENUE

February 4, 2019

Sen. Suzanne Geist
State Capitol, #12th Floor
P.O. Box 94604
Lincoln, NE 68509

Senator Geist and members of the Performance Audit Committee,

I am in receipt of the Legislative Audit Office Draft Report of "Nebraska Advantage Act: Performance on Selected Metrics" which was provided to the Department of Revenue (Department) on January 4, 2019. The Department does not have any comments relating to the findings stated in the draft report. Thank you for the time and effort expended by the Legislative Audit Office in conducting this audit. We enjoyed working with you and the members of the audit team.

Respectfully Submitted,

Tony Fulton

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

The Department of Revenue had no comments on the audit report's findings.

State of Nebraska

LEGISLATIVE COUNCIL

www.nebraskalegislature.gov

Legislative Fiscal Office
PO Box 94604, State Capitol
Lincoln, NE 68509-4604

February 13, 2018

Martha Carter
Legislative Auditor
Performance Audit
11th Floor, State Capitol
Lincoln, NE 68509

Dear Martha;

You have asked the Fiscal Office to review the draft report "Nebraska Advantage Act: Performance on Selected Metrics" as to whether the recommendations can be implemented by the agency within its current appropriations.

Generally the recommendations for Metric 1 and 6 relate to legislative policy choices and we would indicate no likely fiscal impact to implement.

The recommendations for Metric 2, 4, and 5 basically state that future performance audits would be improved if the Legislature establishes benchmarks for those respective metrics. There is some potential for additional costs to establish these benchmarks depending on the whether these could be done with existing staff or there would be a need for contract assistance. The magnitude, if any, of such costs cannot be determined nor can the expectation of absorbing the costs in future budgets.

We would have the same comments with respect to the recommendation for Metric 3 with the addition that the cost of additional modeling software as noted in the recommendation would be approximately $40,000.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Tom Bergquist
Legislative Fiscal Analyst