



## NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

---

Mike Foley  
State Auditor

Mike.Foley@nebraska.gov  
PO Box 98917  
State Capitol, Suite 2303  
Lincoln, Nebraska 68509  
402-471-2111, FAX 402-471-3301  
auditors.nebraska.gov

December 13, 2023

Tom Sage, Executive Director  
Nebraska Racing and Gaming Commission  
3401 Village Drive Suite 100  
Lincoln, Nebraska 68516

Dear Mr. Sage:

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Nebraska (State), as of and for the year ended June 30, 2023, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and we have issued our report thereon dated December 13, 2023. In connection with our engagement to audit the financial statements, we considered the State's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

In connection with our engagement to audit the financial statements as described above, we noted a certain internal control or compliance matter related to the activities of the Nebraska Racing and Gaming Commission (Commission) or other operational matter that is presented below for your consideration. The comment and recommendation, which has been discussed with the appropriate members of the Commission's management, is intended to improve internal control or result in other operating efficiencies.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations during our audit, we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that have not been identified.

Draft copies of this letter were furnished to the Commission to provide management with an opportunity to review and to respond to the comment and recommendation contained herein. The formal response received has been incorporated into this letter. The response was not subjected to the other auditing procedures applied in the engagement to audit the financial statements and, accordingly, we express no opinion on it. A response that indicates corrective action has been taken was not verified at this time, but it will be verified in the next audit.

The following is our comment and recommendation for the year ended June 30, 2023.

## **Non-Compliance with Commission Rules and Regulations**

The Commission collected \$9,635,470 in gaming revenue during fiscal year 2023 but failed to require the completion of independent audits by certified public accountants in accordance with its own rules and regulations. No audits of any of the three authorized gaming operators were completed as of the end of the fiscal year.

Additionally, an integrity and security assessment over one of the three authorized gaming operator's Critical Gaming System was not performed within 90 days after the commencement of operations in Nebraska.

The Nebraska Racetrack Gaming Act (Act) was created through Initiative Law 2020, No. 430, and codified at Neb. Rev. Stat. §§ 9-1101 to 9-1118 (Reissue 2022). It authorizes the operation of games of chance by authorized operators within licensed racetrack enclosures. The Commission is charged with administering the Act, including the adoption and promulgation of rules and regulations for any gaming taxes assessed to authorized gaming operators.

In February 2023, Title 296 of the Nebraska Administrative Code (NAC), the Commission's official rules and regulations, became effective, and the Commission also approved its Minimum Internal Control Standards (MICS).

Title 296 NAC 4.006.01 requires an annual audit of the authorized gaming operator's internal control system, as follows:

*Authorized Gaming Operators will have their Internal Control System independently audited at least once annually with the results documented in a written report. Reports will be maintained and available to the Commission.*

Annual financial statement audits of the holder of an authorized gaming operator license are required by Title 296 NAC 7.004.01A, as follows:

*The Commission will direct an audit to be performed of the annual financial statements of the holder of an Authorized Gaming Operator License including a report on the Internal Control System communicating any reportable conditions and material weaknesses noted during the audit. Upon written notice by the Executive Director other procedures or reports may be required. The annual audit will be performed by an independent certified public accountant who is or whose firm is licensed in the State of Nebraska. The independent certified public accountant who performs the annual audit shall be approved by the Commission, and the selection may be based on the recommendation of the holder of an Authorized Gaming Operator License.*

Section E (VII)(H) of the MICS promulgated by the Commission contains the following requirement:

*Each Authorized Gaming Operator shall, within ninety (90) days after commencing operations in Nebraska, and annually thereafter, have an integrity and security assessment of the Critical Gaming Systems conducted by an independent professional selected by the Authorized Gaming Operator and subject to approval of the NRGCC.*

Gaming revenues collected from the authorized gaming operators are expected to increase because fiscal year 2023 did not represent a complete year of gaming operations for any of the authorized gaming operators. In fact, for the first six months of fiscal year 2024, the Commission recorded gaming revenues at the now four authorized gaming operators as being \$9,209,201. This expected increase in collections makes it all the more imperative that completion of the required audits and initial integrity and security assessments be given the highest priority.

A proper system of internal controls requires procedures to ensure compliance with both the Commission's rules and regulations and its MICS. Without such procedures, there is an increased risk for not only loss of gaming and the attendant tax revenues but also inaccurate reporting and receipting thereof.

We recommend the prioritization of compliance with both the Commission's rules and regulations and its MICS, thereby ensuring: 1) performance of the required annual audits over each authorized gaming operator's financial statements and system of internal controls; and 2) the mandatory completion of the integrity and security assessment of each operator's Critical Gaming Systems within 90 days from the commencement of operations.

*Commission Response: The Commission agrees with the findings and are currently working on strengthening our policies and procedures regarding all requirements the casinos need to comply with pursuant to the rules and regulations established by the Nebraska Racing and Gaming Commission.*

\* \* \* \* \*

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the Commission and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to the Commission.

The purpose of this letter is solely to describe the scope of our testing of internal control over financial reporting and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the State of Nebraska's internal control over financial reporting or on compliance. This letter is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the State of Nebraska's internal control over financial reporting and compliance. Accordingly, this communication is not suitable for any other purposes.



Kris Kucera, CPA, CFE  
Assistant Deputy Auditor