



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

February 17, 2026

State Auditor Mike Foley Asks: “Why Are We Shelling Out Millions in Tax Incentives to Corporations No Longer in Nebraska?”

In a management letter to the Nebraska Department of Revenue (Department), released February 13, 2026, State Auditor Mike Foley has addressed serious unintended consequences of two Nebraska tax incentive programs – the Nebraska Advantage Act (Act) and its successor, the ImagiNE Nebraska Act. “The purpose of these tax incentives is to enhance our economy by attracting new businesses and talent to Nebraska,” Foley explained. “It’s time to take a deep dive into how they are actually working, though.” Illustrating the need for such scrutiny, Foley pointed out that the impact of these programs is far from trivial, resulting in nearly \$1.2 billion in lost revenue over the past four fiscal years alone.

Among the most striking of the issues addressed in Foley’s letter is the ability of participating companies to “uninvest” in Nebraska but continue to receive incentive payments. Though largely unaddressed, millions of dollars in State and local tax refunds have been paid to businesses with inoperative projects. Current law permits the transfer of tax incentives earned under the Act to any company that acquires the project responsible for those rewards; however, no consideration is given to whether the acquirer will continue with the project. Despite the disappearance of a qualifying project, as well as the previously accompanying jobs, therefore, tax incentives may continue to flow to an acquiring business responsible for discontinuing it.

Because tax filings are confidential, the identities of such recipient companies cannot be publicly disclosed. Foley’s letter describes one business, however, whose qualifying project was acquired by another company. After closing the project location in Nebraska and eliminating those jobs here, the acquiring company continued to receive millions of dollars in tax incentive refunds.

Another business, Foley notes, declared bankruptcy long ago and eliminated its qualifying projects over a period of years. Since then, the State has paid the bankruptcy estate millions of dollars in refunds under the Act.

“These two examples necessarily raise serious questions about the efficacy of Nebraska’s current tax incentive policy,” Foley declared. “It’s almost as if we are begging companies to take unfair advantage of us. Without some assurance – which is currently nonexistent – that projects and jobs for which tax incentives are awarded will remain ongoing for a designated period of time, this will continue to occur. Businesses will take the money and run, while the taxpayers are left holding the bag.”

More disturbing yet, Foley’s letter underscores the profoundly negative fiscal effect of tax incentives on the revenues of local communities. The Act authorizes refunds of both State and local sales and use taxes to participating companies. On the local level, this is accomplished by reducing the monthly distribution of those taxes to the affected political subdivision. As of fiscal year 2025, a total of \$180,691,506 in local sales and use taxes collected have been paid to participating companies, resulting in the reduction of those tax revenues to the local governments that levied them. One municipality referenced in Foley’s letter has seen all of its local sales taxes abated since fiscal year 2023 due to the disbursement of nearly \$65 million in local refunds under the Act.

“Something not to be overlooked,” Foley emphasized, “is that the almost \$181 million paid out as incentives under the Act consisted totally of local taxes – money raised directly from the residents of individual municipalities to meet their particular civic needs. Then, in the blink of an eye, those funds were gone, and there was no replacement.” He added, “This is absolutely unsustainable, and any municipality that thinks it can’t face a similar predicament may be in for a very rude awakening.”

In addition to the obvious fiscal chaos occasioned by refunding local tax revenues as incentive payments, Foley noted the underlying incongruity of such a plan. “On the one hand, everyone lauds local control and accountability. At the same time, though, we risk undermining those core values by making it extremely difficult for certain municipalities to budget effectively – leaving them to face a fiscal cliff when vital local tax revenues are withheld to make incentive payments to businesses under the Act.”

As made clear in the conclusion of an April 14, 2025, letter that Foley sent to the Legislature, tax incentive programs are practical tools for growing Nebraska’s economy. “When carried out properly,” that letter stated, “such programs not only help to provide residents with jobs and opportunities for financial security but also support an expanding tax base that makes possible public services.” When not implemented or managed appropriately, however, such programs can prove counterproductive instead.

“Utilizing a tax incentive program,” remarked Foley, “can be somewhat akin to walking the razor’s edge. No matter the potential benefits, which are undeniable, the possibility of an unfavorable outcome is ever present.” To correct the defects mentioned herein, as well as forestall other preventable pitfalls, Foley has encouraged legislative action aimed at strengthening relevant statutory provisions. Additionally, he urges the Department to review its administrative rules and regulations, seeking improvements for better effectuating both the Act and the more recent ImagiNE Nebraska Act.

Foley highlighted the immediacy of this issue by explaining, “The \$295 million in tax abatements during fiscal year 2025 amounts to roughly 10% of the State’s general fund balance, not to mention approximately 42% of its appropriations to the University of Nebraska, for that year.” Adding to those lost revenues hundreds of millions of dollars in uncollected taxes – which Foley addressed in a separate April 14, 2025, attestation report to the Department – increases the possibility, he warns, of a “fiscal ‘perfect storm’ of sorts looming on the State’s horizon.”

A copy of each letter or report referenced herein is available on the Nebraska Auditor of Public Accounts’ website at auditors.nebraska.gov.

#