



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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December 17, 2025

James R. Kamm, Tax Commissioner
Department of Revenue
P.O. Box 94818
Lincoln, Nebraska 68509-4818

Dear Mr. Kamm:

We have audited, 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, 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, 2025, and the related notes to the financial statements, which collectively comprise the State's basic financial statements, and have issued our report thereon dated December 17, 2025. In planning and performing our audit of the financial statements, we considered the State's system of 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 audit as described above, we noted certain internal control or compliance matters related to the activities of the Nebraska Department of Revenue (Department) or other operational matters that are presented below for your consideration. These comments and recommendations, which have been discussed with the appropriate members of the Department's management, are intended to improve internal control or result in other operating efficiencies.

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 and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified a certain deficiency in internal control that we consider to be a material weakness and another deficiency that we consider to be a significant deficiency.

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. We consider Comment Number 1 (Financial Statement Errors) to be a material weakness.

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. We consider Comment Number 2 (Nebraska Advantage Act Tax Incentive Program Issues) to be a significant deficiency.

These comments will also be reported in the State of Nebraska's Statewide Single Audit Report Schedule of Findings and Questioned Costs.

In addition, we noted other matters involving internal control and its operation that we have reported to management of the Department, pursuant to American Institute of Certified Public Accountants (AICPA) Auditing Standards AU-C Section 265.A18, in a separate early communication letter on November 17, 2025.

Draft copies of this management letter were furnished to the Department to provide management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this management letter. *Government Auditing Standards* require the auditor to perform limited procedures on the responses. The responses were not subjected to the other auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next audit.

The following are our comments and recommendations for the year ended June 30, 2025.

1. Financial Statement Errors

As noted in the prior fiscal year management letter, the Auditor of Public Accounts (APA) continued to identify substantial errors in the reporting of accrual entries submitted to the Department of Administrative Services – Accounting Division (State Accounting), resulting in materially misstated financial statement entries, requiring significant adjustments, revisions, and additional time to complete required audit procedures.

Errors Requiring Financial Statement Adjustments

The following table identifies \$95,940,675 in errors made by the Department in its reporting of accrual activity to State Accounting, which resulted in the need for adjusting journal entries.

Description	Reason	Dollar Error
Item #1: Individual Income Tax Refund Payable	The Department's calculation for the individual income tax payable was understated because it inaccurately included receipts associated with the pass-through entity tax (PTET) passed in 2023 as income tax withholding.	\$ 59,754,489
Item #2: Sales Taxes Receivable and Payable	The Department incorrectly reported both a sales tax receivable to the State and a payable from the State to a municipality related to tax incentive refunds. The APA and the Department determined the amounts should be shown as a net receivable from the municipality.	\$ 14,194,086
Item #3: Partnership Income Taxes Receivable	A substantial amount of fiscal year 2024 and 2025 tax receipts collected in July and August were coded to partnership income taxes. The Department did not report a receivable in either fiscal year associated with these subsequent receipts. Therefore, not only was an adjustment required to record the fiscal year 2025 receivable, but also a beginning balance adjustment was required for the fiscal year 2024 receivable that was not recorded.	\$ 10,586,081
Item #4: Delinquent Sales and Use Tax Receivable	The delinquent sales and use tax receivable was understated due to a balance being incorrectly excluded from the protested audit listing.	\$ 7,152,901
Item #5: Corporate Income Tax Receivable	A beginning balance adjustment was needed to correct the prior year corporate income tax receivable reported. In fiscal year 2025, the APA learned that only certain corporations' tax receipts should be included in the receivable because some extension payments were not due until after fiscal year end. Therefore, the prior corporate income tax receivable was overstated.	\$ 4,253,118
Total Adjusting Journal Entries		\$ 95,940,675

The following information contains more details on each item included above.

Item #1 – Individual Income Tax Refund Payable

The Department calculated its estimated individual income taxes payable at the end of each year. The calculation included a five-year comparison of the refunds paid each year to the income tax withholding and estimated income tax receipts.

Tax year 2023 had considerable changes to the receipts and refunds used in the calculation due to the passage of LB 754 in June 2023, which allowed pass-through entities, such as partnerships and S corporations, to elect voluntarily to pay Nebraska income taxes on behalf of their owners. The tax forms for tax year 2023 were not changed, so the pass-through entity taxes (PTET) were included in the withholding category on the tax forms.

After 2023, there was a separate field to report the pass-through entity tax. In its initial calculation of the income taxes payable, the Department included the new PTET taxes as income tax withholding receipts. However, after further discussions, the Department was able both to isolate the PTET taxes attributed to tax year 2023 in its system and to adjust the 2023 income tax withholding receipts used in the accrual calculation by over \$1.2 billion.

Upon revision of the calculation, the income taxes payable was understated by \$59,754,489.

Item #2 – Salex Taxes Receivable and Payable

As a result of some large tax incentive refunds of local sales and use taxes under the Nebraska Advantage Act, one municipality owed money back to the State for refunds paid under the Act.

Neb. Rev. Stat. § 77-27,144(1) (Supp. 2025) allows the Tax Commissioner to deduct the amount of refunds from the monthly distribution to the municipalities. More specifically section (2)(a) requires the deductions for a refund owed by a city to be delayed for one year after the refund has been paid.

As a result of the large tax incentive refund, the municipality owed the State money, creating the receivable. The Department also created a liability for certain local other tax distributions it owed but had not paid to the municipality, such as motor vehicle sales taxes, consumer use taxes, motorboat sales taxes, and ATV sales taxes. However, the Department lacks the statutory authority to withhold tax distributions – but it can offset the amount of the refund owed using those taxes. Consequently, there should be only a net receivable reported by the State that is owed from the municipality. The total effect of this error was \$14,194,086.

For more information on the effect of tax incentive refunds on municipalities, see **Comment Number 2** (Tax Incentive Program Issues) herein.

Item #3 – Partnership Income Tax Receivable

The Department failed to calculate a receivable for its partnership income tax types, which resulted in the more than \$10 million adjustment. Partnership income tax receivable at year-end should consist of those taxes for a tax period of June 2025 or prior, which are received after June 30.

Using the July and August system reports, the fiscal year 2025 partnership income tax receivable was determined to be \$4,390,366, and the fiscal year 2024 partnership income tax receivable was determined to be \$6,195,715, requiring a beginning balance adjustment.

Item # 4 – Delinquent Sales and Use Tax Receivable

The Department calculated delinquent tax receivables that include both delinquent and protested tax balances. The protested tax balances for sales and income taxes reported for fiscal year 2025 were significantly understated because one balance was incorrectly removed from the listing as of June 30, 2025, even though the account was not settled until August 2025.

The protested balance in question was over \$19 million – which, when factored in with the collection percentage for the sales and use tax protested balances, resulted in an understatement of the receivable in the amount of \$7,152,901.

Item #5 – Corporate Income Tax Receivables

During fiscal year 2024, the APA worked with the Department to ensure the estimated corporate income taxes receivable were properly recorded at the fiscal year-end and agreed upon an adjusted receivable of \$4,253,118. However, when reviewing the fiscal year 2025 receivable, the APA learned that not all corporate income taxpayers have the same due date; moreover, for corporations with a March fiscal year-end, only the S corporations should be included in the receivable. Therefore, the adjusted entry from the prior year was incorrect, and a beginning balance adjustment of \$4,253,118 was necessary.

Footnote Corrections

The Department is responsible for the preparation of the Annual Comprehensive Financial Report's (ACFR) tax abatement footnote, in which we identified significant errors in the reported amounts. The Department's original submission failed to include \$45,440,317 in tax abatements, as shown in the table below:

Program	Amount Not Reported
Nebraska Advantage Act	\$ 36,274,065
Employment and Investment Growth Act	\$ 1,651,736
ImagiNE Nebraska Act	\$ 7,514,516
Total Error	\$ 45,440,317

Statement No. 77 of the Governmental Accounting Standards Board (GASB 77) requires the State to disclose the gross dollar amount of taxes being abated.

Other Corrections Required

In addition to the errors noted above, all of which required adjustments to the State's financial statements, the APA identified other errors made by the Department that were communicated to State Accounting for correction prior to being recorded within the State's accounting system. However, had the APA not advised the Department of the errors, the corrections likely would not have been made. The errors are included below:

Description	Reason	Dollar Error
Corporate Income Tax Receivable	Similar to the correction noted in Item #5 from the first table above, the Department incorrectly included certain corporate income tax receipt extension payments in its receivable calculation for fiscal year 2025. Only S corporations with a March tax year-end should be included in the receivable based upon their due date of June 15. However, the Department initially included all corporate income tax extension payments with a March year-end. Upon notification from the APA and its subsequent agreement with the error, the Department communicated the error to State Accounting, which removed the incorrect portion of the accrual prior to its entry into the accounting system.	\$ 2,752,087
Motor Fuels Tax Receivable	The motor fuels tax receivable was overstated due to an error in a report used by the Department to calculate the amount. Upon being notified by the APA of the error, the Department communicated the error to State Accounting by adjusting the accrual response form.	\$ 762,660
Total Errors		\$ 3,514,747

Other Errors That Were Not Corrected

The Department also made the following slightly less significant errors, which were not corrected during its preparation of accrual information provided to State Accounting as part of the year-end ACFR reporting.

Description of Issue	Dollar Error
In addition to the \$2,752,087 error noted in the preceding table, the APA found other errors in the Department's calculation of the corporate income taxes receivable. The Department lacked adequate review procedures for July and August tax receipts to ensure they were properly included in the receivable calculation; therefore, the APA tested these receipts. In our testing of 18 receipts used in the calculation, we identified issues with 8 of them, which included amounts that should have been included in the accrual but were not as well as balances that were included in the accrual and should not have been. The cumulative effect of these errors resulted in the receivable being overstated by \$864,359. These errors were not corrected in the financial statements.	\$ 864,359
To calculate the delinquent tax receivable, the Department relies on the accuracy of the reports generated within their tax databases. The Department's reports incorrectly included two delinquent income tax withholding balances that did not actually have taxes due. The issue was related to the taxpayer being assigned a new tax identification number. This resulted in the receivable being overstated by \$568,218.	\$ 568,218
The Department's motor fuels tax receivable calculation was incorrect because the reports it used understated the July and August collections that were for tax periods prior to June. Therefore, the receivable was understated.	\$ 283,791
The Department lacked adequate review procedures for estimated individual income tax receipts that occur after fiscal year-end to assess the reasonableness of the inclusion of such receipts in their individual income tax accrual. The APA tested one \$105,000 estimated tax receipt from August 2025 and determined that amount was included in the accrual calculation and should not have been.	\$ 105,000
Certain estimated corporate income tax receipts from July 2025 were excluded from the calculation of the tax receivable. The Department neglected to include some activity from July 2025 within its corporate income tax receivable, resulting in a \$25,390 variance.	\$ 25,390
Total Errors Noted	\$ 982,399

A proper system of internal controls requires procedures to ensure accurate reporting of financial information in the accounting system and to State Accounting on the accrual response forms. As seen throughout this comment, a lack of such procedures increases the risk of material financial statement errors going undetected. The absence of procedures also increases the audit time required to ensure financial statements are materially correct.

Without such control procedures, there is an increased risk that material misstatements will go undetected.

This issue was also noted in the prior year management letter.

We recommend the Department implement procedures to improve its procedures for calculating and reporting significant accounting information to State Accounting at fiscal year-end to help ensure the proper presentation of the financial statements and footnote disclosures.

Department Response:

Item 1: This issue was due to a systems report (IIT120) that combined withholding and PTET shown as withholding on the report. The IIT120 report now separates the PTET and withholding amounts. This will resolve any future issues when arriving at the average refund percentage.

Item 2: This was a new and complex accrual item reported on this year's ACFR. The DOR will correctly report this accrual on next year's ACFR.

APA Response: Although the Department first reported this as an accrual in fiscal year 2025, it has existed since fiscal year 2023.

Item 3: Until recently, partnership returns were informational returns. The DOR will ensure partnership receivables are accounted for in subsequent accruals.

Item 4: This was a clerical error, and the docket system was corrected. Management will review the protested audit listing to ensure all protests are accounted for correctly.

Item 5: DOR does not agree with Item 5 and the corporate income tax finding of \$2,752,087 as a finding for the following reason. On the prior year 2023-24 Management Letter, Page 4, Item #3, the APA states, "The Department failed to include significant receipts for Corporate Income Tax extensions in its receivable calculation", in the amount of \$4,253,118. On the 2024-25 Management Letter the APA is reversing their prior year finding of \$4,253,118 for the same amount.

APA Response: In the fiscal year 2024 audit, we had questioned whether certain corporate income tax activity should be reported as an accrual. In its response to our question, the Department stated, "It was our understanding that we were agreement on how to arrive at the accrual . . . However, after looking at your analysis, we think we agree with your determination." In fiscal year 2025, we obtained new information regarding this issue, which the Department had failed to provide previously. This new information did, in fact, change the calculation of the corporate income tax receivable. We rely on the Department to provide the APA with an understanding of these complex tax accruals.

After further review the DOR is questioning if the \$45M should be included in the abatement footnotes since the amount is reported as an accrual item. If reported on the footnote it should be stated that the amount is already reported in the statements.

APA Response: Again, the Department agreed to this change in a December 5, 2025, email response, stating, "Both amounts are reported on the ACFR as an accrual. We agree that it should be included in the abatement footnote." The purpose of the financial statement footnotes is to provide essential context behind the actual numbers in the financial statements. Additionally, the footnote states clearly that the table included therein is on the accrual basis; therefore, these amounts should not be excluded simply because they are included already in the financial statements.

2. Nebraska Advantage Act Tax Incentive Program Issues

As the Nebraska Legislature entered its 109th session in January 2026, the State faced a \$451 million budget deficit – as cited by multiple sources. Yet, in its fiscal year 2025 annual audit, the State reported that over \$295 million in various taxes had been abated in one fiscal year alone. Taxes abated refers to the reduction or exemption of taxes owed by individuals or companies.

The largest program in terms of taxes abated is the Nebraska Advantage Act (Act), which allows taxpayers involved in a qualified business to earn and use tax benefits based on investment and employment growth. Although the Act has been closed to new entrants since December 31, 2020, it remains the largest and most utilized tax abatement program offered by the State. The following table, from the State’s fiscal year 2025 Annual Comprehensive Financial Report (ACFR), illustrates the reduction of the State’s tax revenues during fiscal year 2025:

No.	Program	Taxes Abated
A	Nebraska Advantage Act	\$ 227,847
B	Nebraska Advantage Rural Development Act	2,683
C	Nebraska Advantage Microenterprise Tax Credit Act	1,190
D	Employment and Investment Growth Act	(892)
E	Job Creation and Mainstreet Revitalization Act	3,740
F	New Market Job Growth Investment Tax Credit Act	6,578
G	Beginning Farmer Tax Credit Act	1,434
H	Community Development Assistance Act	552
I	Affordable Housing Tax Credit Act	28,474
J	ImagiNE Nebraska Act	11,578
K	Renewable Chemical Production Tax Credit Act	567
L	Key Employer and Jobs Retention Act	*
M	Urban Redevelopment Act	129
N	Invest Nebraska Act	*
O	Good Life Transformational Projects Act	11,338
	Total	\$ 295,218 **

*To maintain confidentiality, no information is disclosed due to the low number of companies reporting activity.
**This total excludes amounts for programs that were not individually reported.

The State reported that its tax revenues were reduced by \$227.8 million as a result of the Act. In comparison, only \$11.6 million in taxes were abated for the ImagiNE Nebraska Act.

The APA has previously communicated many of the issues addressed in this comment and recommendation in its December 18, 2024, ACFR management letter and in a letter issued to the Nebraska Legislature on April 14, 2025 (“Tax Incentives Letter to Senators”). Both letters can be found on the APA’s website (<https://auditors.nebraska.gov/>).

The following are the three greatest concerns that arose from the APA’s testing of the refunds paid under the Act:

- ***Unlimited Direct Refunds of Sales and Use Taxes***
- ***Lack of Maintenance Audits***
- ***Effect on Local Governments***

Each of these issues is discussed in greater detail below.

Unlimited Direct Refunds of Sales and Use Taxes

Neb. Rev. Stat. § 77-5725(2) (Supp. 2025) generally allows participating companies to request and receive a refund of sales and use taxes – which is not limited by investment or employment credits earned – paid on the purchase or lease of qualified property for a project. The Department refers to these refunds as “direct refunds” of sales and use taxes.

Below is a summary of the refunds of sales and use tax paid via “direct refunds,” as reported by the Department in its October 31, 2025, “Nebraska Tax Incentives 2025 Annual Report to the Legislature” (Annual Report):

Fiscal Year	Direct Refunds
2023	\$ 93,496,829
2024	\$ 86,912,401
2025	\$ 111,009,065
Total	\$ 291,418,295

The nature of the activities that qualify for “direct refunds” – i.e., projects with significant amounts of building construction – could result in an increased likelihood of unusually large refund requests.

In our April 14, 2025, “Tax Incentives Letter to Senators,” the APA expressed the concern that the State may not be adequately prepared for unusually large “direct refund” requests under its current budgetary constraints. Based off of tax receipt activity observed since January 2025, the large volume of consumer use taxes remitted by one company might indicate that another unusually large refund request is imminent.

A proper system of internal control requires procedures to ensure that the State is prepared for significant “direct refund” requests since these refunds appear to have no dollar limit.

Without such procedures, there is an increased risk that the State, as well as local governments, could be faced with significantly reduced revenues.

We recommend the Department and the Legislature review this concern and consider the possibility of a statutory dollar limit on “direct refunds,” similar to those that exist for other State tax incentive programs. Such action could help to protect the State from further significant revenue shortages.

Department Response: DOR follows the statutes as written. This would require a legislative change.

APA Response: Being the administrator of the Nebraska Advantage Act, the Department has vital oversight responsibilities that include both informing the Legislature of important statutory considerations for ensuring the effectiveness of the Act and working toward their expedient implementation – especially in light of the State’s current budgetary issues. While honoring the exclusive authority of the Legislature to make policy decisions, the Department is in a unique position to provide information and, in some instances, important assistance regarding beneficial statutory revisions to the Act.

Lack of Maintenance Audits

The Department lacked procedures for ensuring that the required minimum levels of employment and investment were maintained for participating companies under the Act. This could have been accomplished had the Department conducted maintenance audits after the companies had qualified for and begun receiving refunds under the Act.

The table below shows 16 of 21 companies tested that have not had a maintenance audit completed by the Department. These companies earned \$126.1 million in credits during fiscal year 2025 and earned \$208.6 million in credits during fiscal year 2024. These companies received tax refunds under the Act of \$75.3 million in fiscal year 2025.

Company	Date of Qualification Audit	Amount of Refund Tested	Refunds Paid in FY 2025
Company #6	12/17/2020	\$ 6,629,163	\$ 33,731,246
Company #13	12/16/2020	\$ 3,582,825	\$ 14,982,597
Company #3	11/14/2022	\$ 1,523,649	\$ 7,388,419

Company	Date of Qualification Audit	Amount of Refund Tested	Refunds Paid in FY 2025
Company #16	11/2/2021	\$ 5,148	\$ 7,083,457
Company #15	11/29/2021	\$ 4,919	\$ 2,816,688
Company #5	12/15/2022	\$ 136,935	\$ 2,519,191
Company #17	1/19/2022	\$ 104,870	\$ 2,165,912
Company #12	11/12/2020	\$ 80,654	\$ 2,034,587
Company #20	8/4/2020	\$ 145,242	\$ 851,389
Company #4	1/28/2019	\$ 35,593	\$ 666,419
Company #10	6/20/2023	\$ 60,919	\$ 339,874
Company #8	7/5/2018	\$ 20,710	\$ 280,888
Company #9	6/17/2024	\$ 4,093	\$ 224,222
Company #14	12/9/2019	\$ 3,129	\$ 120,246
Company #2	3/26/2024	\$ 7,974	\$ 79,273
Company #21	3/20/2024	\$ 23,568	\$ 61,579
Totals		\$ 12,369,391	\$ 75,345,987

A proper system of internal control requires procedures to ensure that the required levels of investment and employment growth are maintained.

The lack of such procedures increases significantly the risk of participating companies reducing, without detection by the Department, their employment levels after the initial qualification.

A similar finding was noted in the prior year.

We recommend the Department implement procedures to ensure that companies participating in the Act maintain the required levels of employment.

Department Response: DOR will develop a written procedure to ensure consistency.

Effect on Local Governments

Both State and local sales and use taxes are refunded to participating companies under the Act. When a refund of local sales and use taxes is paid to a participating company, the Department reduces the monthly distribution of those taxes to the affected municipality.

As detailed in the following table, the APA has accumulated from the State's accounting system the local portion of sales and use taxes refunded since the Act's inception:

Fiscal Year	Refunds of Local Sales and Use Tax
FY 2019 and Prior	\$ 46,544,297
FY 2020	\$ 18,929,776
FY 2021	\$ 8,573,143
FY 2022	\$ 11,040,868
FY 2023	\$ 54,380,041
FY 2024	\$ 23,249,574
FY 2025	\$ 17,973,807
Total	\$ 180,691,506

Over \$180 million in local sales and use taxes collected have been paid to participating companies, resulting in the reduction of those same taxes to the municipalities that levied them. Because the Act authorizes the reduction of local sales and use taxes, the municipalities have little, if any, control over it.

One municipality has seen all of its local sales taxes abated since fiscal year 2023 due to local refunds paid of nearly \$65 million. State statutes require such large refunds to be deducted from the monthly distribution over the period of one year in equal installments. Therefore, starting in October 2023, the State began deducting the refund amounts from the municipality's monthly distribution. The State retained not only local sales taxes but also motor vehicle sales taxes, consumer use taxes, motorboat sales taxes, and ATV sales taxes.

The APA expects the impact on this municipality to continue indefinitely as the company continues to pay sales taxes under the project as well as to request refunds under the Act. The APA also estimates that other municipalities in Nebraska will be similarly impacted in the future as activity under the Act and the ImagiNE Act progresses.

In its "Tax Incentives Letter to Senators," the APA recommended the Legislature consider whether the denial of local sales and use taxes to municipalities is both consistent with underlying legislative intent and beneficial to the overall economic health of the State, particularly in those cities and villages that have experienced such loss of funding.

A proper system of internal control requires procedures to ensure that the State periodically reviews its tax incentive programs to evaluate the impact of those programs on both the overall economic health of the State and the affected municipalities.

Without such procedures, there is an increased risk that the State, as well as local governments, could be faced with significantly reduced revenues.

We recommend the Department and the Legislature work together on solutions to prevent the total loss of local sales and use taxes for cities and villages affected by the Act, as well as provide for some mechanism that allows for the projection of future impacts of the Act on cities and villages. It may be worth considering also whether statutory changes to the Act are necessary to provide for a limit on local tax refunds, similar to those that exist for other State tax incentive programs.

Department Response: DOR complies with statutes as written and reports the information required in the Nebraska Tax Incentives Annual Report.

APA Response: Being the administrator of the Nebraska Advantage Act, the Department has vital oversight responsibilities that include both informing the Legislature of important statutory considerations for ensuring the effectiveness of the Act and working toward their expedient implementation – especially in light of the State's current budgetary issues. While honoring the exclusive authority of the Legislature to make policy decisions, the Department is in a unique position to provide information and, in some instances, important assistance regarding beneficial statutory revisions to the Act.

In addition to the three primary issues identified above, the APA has concerns regarding the following matters, which are addressed in greater detail below:

- *Participating Companies "Uninvesting" in Nebraska*
- *Project End Dates*
- *Allowability of Certain Sales and Use Tax Refunds*
- *Untimely Qualification Audits*
- *Incomplete or Inadequate Departmental Reviews*

Participating Companies "Uninvesting" in Nebraska

Each year, millions of dollars in State and local tax refunds are paid to companies whose projects in the State are no longer operational.

Specifically, the APA observed the following:

- Company #5 and its qualifying project were acquired by another company. The acquiring company closed the project location in Nebraska and eliminated the associated jobs upon acquisition. The acquiring company requested and received the refunds paid under the Act.
- Company #19 declared bankruptcy years ago and closed its qualifying projects over a period of years. Since that time, the State has paid the company's bankruptcy estate the refunds under the Act.

Neb. Rev. Stat. § 77-5728 (Reissue 2018) allows for the transfer of tax incentives earned through the Act to companies that acquire the qualifying projects that earned the incentives. The Act fails to consider, however, whether the acquiring company continues to operate the project, allowing for payment of tax incentives even if the qualifying project is eliminated upon acquisition.

Such payments appear contrary to the purpose of the Act – which, per Neb. Rev. Stat. § 77-5702 (Reissue 2018), includes retaining existing businesses, promote the retention of quality jobs, and retain investment capital in Nebraska.

Neb. Rev. Stat. § 77-5733 (Reissue 2018) authorizes the Department to adopt rules and regulations to accomplish the purposes Act, as follows:

The Tax Commissioner may adopt and promulgate all rules and regulations necessary to carry out the purposes of the Nebraska Advantage Act.

The Department should consider whether administrative rules and regulations could be utilized to limit refunds under the Act when companies uninvest in Nebraska.

A proper system of internal control requires procedures to ensure that tax incentives are sustainable, which might include the adoption of administrative rules and regulations allowing incentives to be paid only when a company continues to operate a project in this State.

Without such procedures, tax incentive payments to companies whose projects have terminated are likely to continue, which appears contrary to the intent of the Act.

We recommend the Department work with the Legislature to determine whether restrictions should be placed on the payment of tax incentives when companies terminate approved projects. We also recommend the Department consider whether administrative rules and regulations could be used to limit refunds under the Act when companies uninvest in Nebraska.

Department Response: DOR follows the statutes that are active. This would require a legislative change.

APA Response: Being the administrator of the Nebraska Advantage Act, the Department has vital oversight responsibilities that include both informing the Legislature of important statutory considerations for ensuring the effectiveness of the Act and working toward their expedient implementation. As pointed out in our letter, the Department may already have the statutory authority to enact rules and regulations to address these concerns.

Project End Dates

The APA and the Department disagree on whether the Act provides for a definite end date for qualifying projects, meaning the date after which tax credits previously earned are no longer available for use.

The APA points to Neb. Rev. Stat. § 77-5726 (Cum. Supp. 2024), which appears to provide a definite end date for the use of credits under the Act.

Specifically, § 77-5726(1)(a) states the following, in relevant part:

The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period.

Furthermore, § 77-5726(1)(e) states the following:

Credits may be carried over until fully utilized, except that such credits may not be carried over more than nine years after the year of application for a tier 1 or tier 3 project, fourteen years after the year of application for a tier 2 or tier 4 project, or more than sixteen years past the end of the entitlement period for a tier 6 project.

The APA interprets these statutes as providing an end date for the project – meaning that, once a project’s carryover period has expired, a company is no longer able to receive tax incentives through the use of credits previously earned.

The APA identified 4 of the 19 payments tested that were to companies that requested and received refunds after the end of the project’s carryover period, ranging from almost two years to over three years later.

Company #	End of Carryover Period	Date of Payment	Amount
Company #7	12/31/2022	12/16/2024	\$ 1,021,539
Company #5	9/25/2022	10/4/2024	\$ 131,012
Company #11	3/31/2022	5/20/2025	\$ 13,660
Company #5	9/25/2022	10/8/2024	\$ 5,923
Total			\$ 1,172,134

In response to a similar finding in the APA’s December 18, 2024, ACFR management letter, the Department stated, in part, the following:

The statute does not provide for an end date to the project. Rather, the statute provides that credits may not be carried over for more than a certain number of years following the end of the entitlement period. The language used by the legislature is referencing the tax years in which credits may be used. If the relevant tax year is open to the statute of limitation a tax return may be filed to utilize available credits.

The “statute of limitation” referenced in the Department’s response refers to the use of extension agreements entered into by companies with the Department. The Department has allowed companies to file these extensions – though not authorized expressly in the Act – to keep the credits operative indefinitely. This results in the effective elimination of any statutory time limit during which the Department may allow the use of previously earned tax incentives. Given that the Act has been “replaced” already by its intended successor program, ImagiNE Nebraska, the APA questions whether it is reasonable or sustainable to operate two large tax incentive programs indefinitely.

In its “Tax Incentives Letter to Senators,” the APA recommended that the Legislature consider whether the Department’s use of extensions – which, as noted previously, are expressly authorized nowhere in statute – to allow for the indefinite use of credits earned under the Act is both consistent with underlying legislative intent and beneficial to the economic health of the State.

A proper system of internal control requires procedures to ensure that tax credits under the Act expire in conformity with the provisions of State statute.

Without such procedures, there is an increased risk for both material statutory noncompliance and loss of State revenue.

We recommend the Department implement procedures to ensure that tax credits under the Act expire in conformity with the provisions of State statute.

Department Response: The statute does not provide for an end date to the project. Rather, the statute provides that credits may not be carried over for more than a certain number of years following the end of the entitlement period. The language used by the legislature is referencing the tax years in which credits may be used. That means that if the relevant tax year is open to the statute of limitation, a tax return may be filed to utilize available credits. Additionally, DOR files the Nebraska Tax Incentives Report annually with the Legislature where the amount of outstanding credits under the Nebraska Advantage Act (NAA) is reported. For purposes of the report, DOR does not expire any credits that are open as a result of a statute of limitations extension even though the project itself has passed the last year of the carryover period. In the Nebraska Tax Incentives 2024 Annual Report to the Nebraska Legislature (issued 10/31/2024) DOR stated: “No new Nebraska Advantage Act applications may be filed after December 31, 2020. However, benefits under the Nebraska Advantage Act may be claimed through 2051, not including extensions or legal matters that remain open.” The Legislature is aware, through the DOR’s reporting, that credits may be claimed in years open to the statute of limitation even though the project itself has passed the last year of the carryover period. The additional language does not impact how DOR reports the data in the Annual Report, it provides an interpretation of that data.

In addition, the incentives acts reference Neb. Rev. Stat. §77-2708 which allows refunds to be filed with a waiver for an extended period of time if a waiver has been given. Eliminating extensions would require legislative change.

APA Response: The statutes referenced in the comment are clear and unambiguous. Nevertheless, as the administrator of the Nebraska Advantage Act, the Department has the responsibility both to inform the Legislature of any apparent impediments, statutory or otherwise, to the proper functioning of the Act and to work energetically toward the appropriate resolution thereof.

Allowability of Certain Sales and Use Tax Refunds

Current language in the Act allows participating companies to receive refunds of sales and use tax on purchases that have little applicability towards the overall promotion of growth and investment within the State.

Neb. Rev. Stat. § 77-5726(1)(c) (Cum. Supp. 2024) states the following:

Credits may be used to obtain a refund of sales and use taxes under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, 13-2813, and 77-6403 which are not otherwise refundable that are paid on purchases, including rentals, for use at the project for a tier 1, tier 2, tier 3, or tier 4 project or for use within this state for a tier 2 large data center project or a tier 6 project.

(Emphasis added.) The APA observed that the Department has used the above statutory language to allow refunds of sales tax paid on meals and food requested by participating companies.

The following are some examples found during our testing:

Company	Food Purchased	State Sales Tax Refunded
Company #4	550 entrees of 8 oz. New York strip steaks, green bean almondine, oven-roasted potatoes, cheesecake.	\$ 579
	555 entrees of beef brisket, turkey, mashed potatoes, green bean casserole, salad, rolls, pies.	\$ 554
	553 entrees of beef brisket, salmon filet and unidentified sides.	\$ 438
Total		\$ 1,571

Along with these catered meals, Company #4 requested and received from the Department a refund of sales tax paid on 157 unique food-related transactions, totaling \$3,384 in tax refunded, on one claim tested.

As the APA tests refund activity on only a sample basis, additional similar refunds are likely to have occurred.

The APA contends that allowing refunds of tax paid on catered meals or other food purchases is unreasonable for carrying out the purpose of promoting investment and employment growth in Nebraska. As noted previously, Neb. Rev. Stat. § 77-5733 (Reissue 2018) authorizes the Department to adopt rules and regulations to ensure fulfillment of the Act's purposes. Such being the case, the Department should consider whether administrative rules and regulations could be utilized to prohibit refunds on items that fail to promote the purposes of the Act.

A proper system of internal control requires procedures, including the possible adoption of administrative rules and regulations, to ensure that unreasonable refunds of State and local sales and use taxes under the Act are identified, leading to action by the Department to prevent further payment thereof.

Without such procedures, there is an increased likelihood of similar refunds continuing to be paid.

We recommend the Department implement procedures, including the possible adoption of administrative rules and regulations, to ensure that refunds of State and local sales and use taxes under the Act promote investment and employment growth in the State.

Department Response: As far as the legislative policy decisions as to which activities deserve benefits under the program, the DOR does not take a position.

APA Response: Being the administrator of the Nebraska Advantage Act, the Department has vital oversight responsibilities that include both informing the Legislature of important statutory considerations for ensuring the effectiveness of the Act and working toward their expedient implementation. While honoring the exclusive authority of the Legislature to make policy decisions, the Department is in a unique position to provide information and, in some instances, important assistance regarding beneficial statutory revisions to the Act.

Untimely Qualification Audits

Once a company has notified the Department that it has met the required levels of investment and employment to qualify for participation in the Act, the Department completes a qualification audit to determine whether the company is eligible to receive tax incentives and the amount thereof.

To ascertain whether the Department performed qualification audit work in a timely manner, the APA reviewed the following: (1) the length of time from a company's notification to the Department to the start of the audit; and (2) the length of time to complete the audit once started.

There were four companies whose qualification audits took from 375 days (1.03 years) to 1,561 days (4.28 years) to start.

Company #	Number of Days (Years) From Notification to Start
Company #11	1,561 (4.28)
Company #17	434 (1.19)
Company #3	384 (1.05)
Company #19	375 (1.03)

We also found that the Department took from 431 days (1.18 years) to 1,534 days (4.20 years) to complete the qualification audits for 13 companies tested.

Company #	Number of Days (Years) From Start to Completion
Company #19	1,534 (4.20)
Company #3	1,253 (3.43)
Company #17	1,216 (3.33)
Company #16	897 (2.46)
Company #1	886 (2.43)
Company #2	784 (2.15)
Company #11	730 (2.00)
Company #15	676 (1.85)
Company #13	659 (1.81)
Company #7	631 (1.73)
Company #18	598 (1.64)
Company #20	448 (1.23)
Company #9	431 (1.18)

The Act contains no specific deadline for completing a qualification audit; however, a proper system of internal control requires the timely performance of all audit functions. The extensive delays noted reflect an ineffective control environment that increases the risk of fraud or abuse of State funds.

Additionally, delays in the qualification audit process affect the timeliness of all other processes performed by the Department under the Act, which further increases the risk of fraud or abuse of State funds.

A similar finding was noted in the prior year.

We recommend the Department implement procedures for ensuring that qualification audits are started and completed in a timely manner.

Department Response: There is no statutory deadline for the length of time that a qualification audit should take. Since a qualification audit determines whether a business has met the minimum required levels based on the type of project, and the level of benefits that the business earned for the audit period, it is unclear how the time to completion increases the risk of fraud, or abuse of State funds. The taxpayer provides substantiating information to ensure that all parts of the agreement have been met, and they are entitled to benefits. Sometimes delays occur due to the untimely receipt of requested information from the taxpayer.

APA Response: As noted in a similar response in last year's management letter, despite the lack of a statutory deadline, the APA disagrees that untimely qualification audits pose no increased risk for fraud or abuse. The further removed that an audit is from the period tested, the greater the likelihood of adequate supporting documentation being unavailable – which necessarily heightens the potential for financial impropriety. Additionally, being the administrator of the Nebraska Advantage Act, the Department has vital oversight responsibilities that include both informing the Legislature of important statutory considerations for ensuring the effectiveness of the Act and working toward their expedient implementation.

Incomplete or Inadequate Departmental Reviews

The APA identified some issues with the various reviews performed by the Department for the tax incentive programs.

First, the Department failed to perform a proper review of each company's annual filings of the Form 312N, which contains information pertaining to investment and compensation credits earned, including an examination of the pattern in full-time equivalent (FTE) growth, the withholding ratio, whether Medicare wages compared to taxable wages on the W-3N, etc. This form is used by companies to report tax credits earned.

Additionally, the APA discovered that the Department did not require participating companies to file the Form 312N each year until the expiration of all tax incentives under the Act, as stipulated in their signed agreements with the Department. Instead, the Department acts only on unfiled forms when companies are earning credits – even though the forms have important employment information that could be reviewed throughout the life of the project.

The Department also lacked procedures for adequately reviewing the invoices provided to support the refund claims. The APA selected a small sample of five invoices to review for the 16 refunds tested and noted the following issues:

- The Department's reduction of a refund claim was inaccurate. This company reported no compensation or investment credits for the year ending December 31, 2023, which was the last year of its entitlement period. Therefore, the company was noncompliant with its project agreement. As such, the Department was authorized to retain 1/7 (for the number of years not in compliance) of the total amount of credits used, or \$539,083, which was split between State sales tax for \$408,960 and local sales tax for \$130,123.

The company had received refunds for income tax credits and withholding refunds, which are entirely State funded, but the Department's calculation allocated the reduction of those taxes to the local sales taxes as well. The APA's calculation included a reduction of \$453,234 for State sales taxes and \$85,849 for local sales taxes. The Department agreed that its original calculation was inaccurate.

Additionally, the Department failed to consider the impact of this reduction on the financial statement presentation by reducing the refund for sales taxes when the original refunds also involved income taxes.

- The Department took over four years to approve and pay a refund claim after the case with the company was settled in 2021.
- The Department failed to maintain documentation to support that it reviews prior invoices submitted for reimbursement to ensure no duplicated invoices are paid.
- Invoices contained different sales tax rates or incorrect sales tax calculations, which were not questioned by the Department.
- The amount of sales taxes requested for reimbursement differed from the amount of sales taxes included on the invoice, which was not questioned by the Department.
- Invoices lacked certain details needed to determine whether the refund was accurate or allowable, which was not questioned by the Department.
- Supporting documentation provided by the company did not agree to the invoices provided, which was not questioned by the Department.

It is important to remember that some companies remit hundreds of invoices to claim their refunds. Although our testing is limited, therefore, the errors that the Department failed to question could result in significant refund errors.

A proper system of internal control should ensure that audit and review procedures performed by the Department while administering the Act are timely and sufficient.

Otherwise, there is a significantly increased risk of fraud, waste, and abuse of State funds.

A similar finding was noted in the prior year.

We recommend the Department implement procedures for ensuring not only that its review of sales and use tax refund claims is accurate and complete but also all documentation pertinent thereto is maintained and reviewed.

Department Response: In our procedures we will implement steps to properly allocate recapture between the state and the applicable city.

The Department takes issue with the assertion that the refund claim was paid four years after the case was settled in 2021 as other related matters remained open with the taxpayer. Upon resolution those accounts were timely paid.

3. Property Tax Credit Act

The Property Tax Credit Act (Act) is found at Neb. Rev. Stat. §§ 77-4209 to 77-4212 (Reissue 2018, Cum. Supp. 2024). Per Neb. Rev. Stat. § 77-4210 (Reissue 2018), the purpose of the Act is as follows:

The purpose of the Property Tax Credit Act is to provide property tax relief for property taxes levied against real property. The property tax relief will be made to owners of real property in the form of a property tax credit.

By September 15 of each year, the Property Tax Administrator certifies the amount of relief available from the Property Tax Credit Cash Fund (Fund). The relief allocated to each County is based upon its ratio of agricultural land and non-agricultural land value in the State. The Department distributes the relief to each County via two equal payments occurring on or before January 31 and April 1.

For tax year 2024 (applicable for distributions occurring in fiscal year 2025), Neb. Rev. Stat. § 77-4212(1) (Cum. Supp. 2024) defines the minimum amount of property tax relief to be certified, as follows:

For tax year 2024, the minimum amount of relief granted under the act shall be three hundred ninety-five million dollars. . . . If money is transferred or credited to the Property Tax Credit Cash Fund pursuant to any other state law, such amount shall be added to the minimum amount required under this subsection when determining the total amount of relief granted under the act.

On September 13, 2024, the Department certified the total property tax credit available to be \$427,068,566. This amount included the \$395,000,000 provided in the above statute, as well as an additional \$32,068,566 that had been previously transferred or credited into the fund. The Department issued the payments to the counties on January 31, 2025, and April 1, 2025.

During testing of the calculated amount of relief, the Auditor of Public Accounts (APA) observed that the Fund's balance on August 31, 2024, shortly before the Department's certification, was \$36,960,657 – meaning that \$4,892,091 in the fund was not included in the certification for property tax credit available (nor paid out to the counties as relief).

According to the Department, the amount certified was limited by the appropriations for the Fund – which, per both constitutional and statutory requirements, could not be exceeded. However, the appropriation was established prior to the certification period, without knowing the additional amounts that would be credited to the fund. Because the minimum amount of relief and the additional amounts credited exceeded the appropriation, a conflict was created with the language in § 77-4212(1), instructing the Department to add to “to the minimum amount required under this subsection” any money “transferred or credited to the Property Tax Credit Cash Fund pursuant to any other state law . . . when determining the total amount of relief granted under the act.”

We recommend the Department work with the Department of Administrative Services – State Budget Division and the Legislature to ensure compliance with all requirements of the Act. One possible resolution would be the approval of an estimated cash appropriation for the Fund, as done for other Cash Fund appropriations.

Department Response: In recognizing that current statutes are conflicting relating to DOR's authority for distribution of the property tax credit cash fund, DOR implemented two corrective measures beginning with property tax year 2025. First, Governor Pillen provided authority through Executive Order 25-13 to certify a

distribution in excess of the appropriation, which was completed by DOR on September 15, 2025. Secondly, in conjunction with the State Budget Office, DOR has requested that the cash fund expenditures not be limited to the appropriation in future budget bills, beginning with LB 1071 in the 2026 Legislative Session.

* * * * *

It should be noted that this letter is critical in nature, as it contains only our comments and recommendations and does not include our observations on any strengths of the Department.

Our audit procedures were designed primarily to enable us to form an opinion on the Basic Financial Statements. Our audit procedures were also designed to enable us to report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with *Government Auditing Standards* 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 Department 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 Department.

The purpose of this letter is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the State's internal control over financial reporting or compliance.

This communication is intended solely for the information and use of management, the Governor and State Legislature, others within the Department, Federal awarding agencies, pass-through entities, and management of the State of Nebraska and is not suitable for any other purposes. However, this communication is a matter of public record, and its distribution is not limited.



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