



**Job Creation and Mainstreet
Revitalization Act: Performance
on Selected Metrics**

**Performance Audit Committee
Nebraska Legislature**

August 2021

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I. Committee Recommendations

Audit Summary and Committee Recommendations

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

Nebraska Historic Tax Credit Participation and Credit Use

LB 191 (2014) created the Job Creation and Mainstreet Revitalization Act, commonly referred to as the Nebraska Historic Tax Credit (NHTC). The NHTC program was modeled after the federal historic preservation credit program as well as programs in other states. The federal and state programs provide tax credits for rehabilitating older buildings with certain officially recognized historic significance, either on their own merit or as a part of a designated historic district.

Between 2015 to 2019, 68 projects invested more than \$232 million in historic preservation. Those projects were issued nearly \$17 million in tax credit.

Performance Audit Committee Recommendations

SECTION I: The Job Creation and Mainstreet Revitalization Act (pgs. 6-15)

Legislative Intent Recommendation: If the current Legislature wants any of the goals found in the legislative intent (geographic distribution, use by non-profits, and project size) to be reflected in law, it will need to amend the program's statutes. If it does add one or more of them, it would be helpful for future evaluations if it indicated more specifically what it would consider meeting each standard.

Credit Efficiency & Transferability Recommendation: If the Legislature is concerned that prohibiting transferability for a portion of the for-profit entities credits has not kept credits from being moved to entities that are not the project developers it may wish to consider removing the prohibition and/or consider other changes to the program to increase efficiency.

SECTION II: The Job Creation and Mainstreet Rehabilitation Act's Effect on the State Economy (pgs. 19-24, 25-30, 60-62)

Independently Viable Projects Recommendation: Future evaluations would be improved if more information was available on individual projects including budget structures, total (eligible/non-eligible) project costs, and syndication agreement details.

Jobs Recommendation: Future evaluations would be improved with reporting on tenant businesses of renovated projects and the number of employees at those locations.

Fiscal Protections Recommendation: If the Legislature wants to monitor the costs of the program, it should require that information in annual reports.

Fiscal Protections Recommendation: If the Legislature wants to forecast future costs of the program, it should require that information in annual reports.

Audit Findings and Results

SECTION I: The Job Creation and Mainstreet Revitalization Act

In Section I, we reported results on three issues related to legislative intent as well as issues relating to the efficiency of this type of credit program.

Legislative Intent Discussion: Legislative history reflects that when the Legislature passed the bill that created the Nebraska Historic Tax Credit program, there were three goals described during legislative debate that were not reflected in the law. (pgs. 6-13)

First, supporters of the bill stated projects in the program would be distributed across the state. Between 2015 and 2019, completed projects were located in the following 12 of the State's 93 counties: Adams, Dawes, Douglas, Hall, Jefferson, Lancaster, Madison, Saline, Saunders, Sherman, Thurston, and Webster.

Second, Legislative history suggests the Legislature wanted to encourage projects by non-profit organizations and political subdivisions. Between 2015 and 2019, 47% of the project applications were initiated by for-profits, 47% were initiated by non-profits, and the remaining 6% of projects were sponsored by political subdivisions.

Third, legislative proponents suggested that the program would primarily benefit projects receiving relatively smaller-credit amounts, indicating they expected only one or two projects to meet the \$1 million cap on credits. By the end of 2019, seven projects received the maximum \$1 million credit. Between 2015 and 2019, the nine largest projects received a total of \$8.8 million. Of the remaining 30 projects, 24 received less than \$500,000, and 19 received less than \$250,000.

Credit Efficiency Finding: Evidence from other state program evaluations and Nebraska Historic Tax Credit projects shows that there are more efficient options for funding historic property redevelopment which can increase the percentage of issued credits that are used for renovation. (pg. 13)

Credit Transferability Finding: Specifically, the restriction on for-profit entities that 50% of credits cannot be transferred did not prevent credits from entering a secondary market or moving to entities that aren't developers, as some legislators intended. In some cases, it may have the opposite effect, as developers who are unable to directly transfer credits must rely on other means, such as syndication agreements, to fund their projects. (pg. 13)

SECTION II: The Job Creation and Mainstreet Rehabilitation Act’s Effect on the State Economy

Independently Viable Projects Finding: Of the 68 projects reviewed, we identified 14 (21%) that we believe were independently viable, meaning the projects would likely have been undertaken even without receipt of the Nebraska Historic Tax Credit. Said another way, we believe 79% of projects were more likely to have been “tipped,” or dependent upon, the credit for financial viability. (pg. 20) To determine if a project was independently viable, we examined construction timelines, credits as a percentage of project costs, and publicly available budgeting information.

Scope Question: *Is the Act meeting the goal of strengthening the state’s economy overall by attracting new business to the state, expanding existing businesses, increasing employment, creating high-quality jobs, and increasing business investment?*

Metric 1: Jobs – How many local jobs did businesses occupying renovated properties create during the review period? (pgs. 25-30)

Result: The tenant businesses we were able to identify created 81 direct jobs in buildings renovated using the program, as shown in Figure A. The results for the 54 projects we believe were more likely to have needed the credit for viability suggest the program may have been a factor in up to 63 of the total 81 direct jobs created.

Figure A. Employment at tenant business increased by 81 jobs.

Project Categories	Number of Businesses	Average Quarterly Employment		
		2 Years Prior	End 2019	Difference
Likely Independently Viable	16	232	251	19
Potentially Caused by Program	14	575	637	63*
Total	30	807	888	81

Source: Audit Office analysis using NHTC and NDOL information.

*Rounding error due to averaged quarterly employees.

Existing economic modeling suggests that 2,756 job-years in Nebraska were associated with NHTC projects. This includes estimates of direct, indirect, and induced employment. The results for the 54 projects we believe were more likely to have needed the credit for viability suggest that approximately 1,191 job years is a more likely figure.

Discussion: Measuring job creation for the Nebraska Historic Tax Credit (NHTC) was different from measuring it for previous incentive programs we have audited. In previous audits, we measured the number of jobs created by the entities that received the tax credit. However, in the NHTC program, jobs are not created by the parties receiving the restoration credit, they are created by the businesses located in the restored property. We used Department of Labor data to measure jobs at businesses housed in NHTC projects.

There is more than one way to measure a program’s jobs impact. Another method using economic modeling to estimate broader economic impacts was performed by the

University of Nebraska’s Bureau of Business Research (BBR). The model estimated that through 2019, the Act generated 2,756 job-years. A job-year is the model’s equivalent to one 40-hour a week job that lasts for 52 weeks. The results include job-years directly associated with project spending and construction, indirect job-years associated with suppliers of project materials, as well as jobs-years induced by new employee spending. When we applied our estimated but-for adjustment percentages, we saw that a more likely total result would be approximately 1,191 job-years, as shown in Figure B.

Figure B. BBR modeling estimates 2,756 jobs caused by the program, while the Audit Office estimate of jobs potentially created is closer to 1,191.

Model Output	100% But-for	Likely Independently Viable (56.8%)	Potentially Caused by Program (43.2%)
Direct Employment	1,735	985	750
Indirect and Induced Employment	1,021	580	441
Total Employment	2,756	1,565	1,191

Source: Audit Office calculations using NHTC and UNL BBR information.

Metric 2: Wages – Were the average wages at businesses occupying properties receiving credit higher or lower than the average wages of all Nebraska jobs in the same industries? (pgs. 31-34)

Result: For the fourth quarter of 2019, the 30 businesses in project locations after renovation had a combined average yearly wage of \$45,077, which was \$5,259 less than the average yearly wage for the state. Additionally, economic modeling produced for History Nebraska suggests that up to \$93 million in direct, secondary, and induced wages were associated with the program. The Audit Office estimates that \$40.2 million is a more likely amount, based on only the projects we believe may have been dependent on the program for financing.

Metric 3: Investment – How much new investment was generated through the Act? (pgs. 35-36)

Result: By the end of 2019, the 68 projects we reviewed invested \$233 million in the state. The results for the 54 projects we believe were more likely to have needed the credit for viability suggest the program may have caused up to \$108 million of the total investment by program projects.

Discussion: More than half of the investment came from projects that the Audit Office determined to likely be independently viable. This includes the four largest projects, which alone account for more than \$97 million in investment. We estimate that the program could have been necessary for up to \$108 million in investment, as shown in Figure C.

Figure C. Projects completed in 2015 and 2017 had the highest levels of investment, with over \$80 million each.

Completion Year	Likely Independently Viable	Potentially Caused by the Program	Total
2015	\$65,393,780	\$20,131,410	\$85,525,190
2016	\$10,104,969	\$26,048,453	\$36,153,422
2017	\$44,848,366	\$38,102,496	\$82,950,862
2018	\$4,325,705	\$16,913,291	\$21,238,996
2019	-	\$6,870,286	\$6,870,286
Total	\$124,672,820	\$108,065,937	\$232,738,757

Source: Audit Office analysis using NHTC and federal HTC data.

Metric 4: New to Nebraska – How many local businesses occupying renovated properties were new to the state? (pgs. 37-38)

Result: As shown in Figure D, of the 30 tenant businesses we identified, five of them were new to the state. Nineteen businesses occupied program properties before and after renovation, and six moved from local areas into program properties after renovation.

Figure D. Five NHTC businesses were new to Nebraska.

Location Status	Businesses	Employment Increase
New to Nebraska	5	8
Local Relocation	6	43
Continuous	19	30
Total	30	81

Source: Audit Office analysis of Nebraska Department of Labor information.

Metric 5: Cost of Compliance – What is the cost for businesses to comply with the Act? (pgs. 39-40)

Result: From 2015 through 2019, applicants paid \$325,838 in application fees. Additional costs of compliance for lawyers, accountants, and other expenditures are inherent in the syndication agreements used by many applicants to monetize credits.

Discussion: In 2015, interest in the new program led to rapid allocation of credits and payment of application fees. A decrease in applications in 2016, combined with the rolling application dates, required an increase in the application fee to offset the uncertainty of distributing the credit allocations for any given year. Part 2 fees totaled \$247,139, distributed across projects. Part 3 fees totaled \$36,362. By the end of 2019, Part 4 fees had been collected for 38 projects for a total of \$42,337. This breakdown is shown in Figure E.

Figure E. From 2015 to 2019, applicants paid \$325,838 in application fees.

Project Year	Part 2	Part 3	Part 4	Total Fees
2015	\$80,205	\$27,461	\$35,165	\$142,831
2016	\$37,533	\$6,385	\$7,010	\$50,928
2017	\$42,744	\$2,384	\$0	\$45,128
2018	\$50,071	\$132	\$162	\$50,365
2019	\$36,586	\$0	\$0	\$36,586
Total	\$247,139	\$36,362	\$42,337	\$325,838

Source: Audit Office analysis of NHTC data.

Scope Question: *Is the Act meeting the goal of revitalizing rural and other distressed areas of the state?*

Metric 6: Rural Areas – To what extent are tax credits being utilized in connection with renovations in rural areas? (pgs. 41-43)

Result: Rural areas saw a higher net employment increase in tenant businesses, while urban areas saw a higher amount of investment and credit use.

Discussion: For the 68 projects we reviewed, \$232.7 million in renovations were completed by the end of 2019. Of those, 59 projects (87%) were in urban areas and invested \$213.6 million. The remaining 9 projects were in rural areas and saw \$19.2 million in investment.

After applying our but-for analysis, we found that of the urban projects, 11 were independently viable, meaning they likely would have happened without the program, and 48 could have been induced the program, shown in Figure F. Using the same analysis, three rural projects were independently viable and six could have been induced the program.

Figure F. The Audit Office estimates the program potentially caused \$7.6 million in investment in rural areas.

Area	Projects	Investment
Rural	9	\$19,169,881
Likely Independently Viable	3	\$11,528,957
Potentially Caused by Program	6	\$7,640,924
Urban	59	\$213,568,876
Likely Independently Viable	11	\$113,143,863
Potentially Caused by Program	48	\$100,425,013
Total	68	\$232,738,757

Source: Audit Office analysis using NHTC and federal HTC data.

As shown in Figure G, 7 of the 30 businesses with post-renovation employment were in rural areas. They all had employment increases in the examination period and saw a combined quarterly average of 44 new jobs. The remaining urban businesses had a net average quarterly increase of 37 jobs.

Figure G. Rural tenant businesses saw a larger employment increase than urban tenant businesses.

Area	Number of Businesses	Average Quarterly Employment		
		2 Years Prior	End 2019	Difference
Rural	7	152	196	44
Urban	23	655	692	37
Total	30	807	888	81

Source: Audit Office analysis of Nebraska Department of Labor information.

Metric 7: Distressed Areas – To what extent are tax credits being utilized in connection with renovations in distressed areas? (pgs. 44-46)

Result: Distressed areas had more projects, investment, and credits than non-distressed areas. However, non-distressed areas saw higher direct employment increases.

Discussion: Of the 68 projects in our evaluation group, 32 of them were in locations that fit our definition of distressed areas and invested \$183.8 million in renovations. After applying our but-for analysis, we found that of the distressed area projects, nine were independently viable, meaning they likely would have happened without the program. Figure H shows the full breakdown.

Figure H. Distressed areas had more projects and investment than non-distressed areas.

Area	Projects	Total Project Cost
Distressed	32	\$183,826,607
Likely Independently Viable	9	\$110,230,806
Potentially Caused by Program	23	\$73,595,800
Non-distressed	36	\$48,912,150
Likely Independently Viable	5	\$14,442,013
Potentially Caused by Program	31	\$34,470,137
Total	68	\$232,738,757

Source: Audit Office analysis of Nebraska Department of Labor information.

As shown in Figure I, fifteen of the 30 companies with post-renovation employment were in distressed areas. Eleven of those combined for an increase of 50 jobs. The remaining four decreased employment in the examination period by 43 jobs, with a net result of an increase of seven jobs in distressed areas. Non-distressed areas saw an increase of 75 jobs.

Figure I. Non-distressed areas saw higher direct employment increases.

Area	Number of Businesses	Average Quarterly Employment		
		2 Years Prior	End 2019	Difference
Distressed	15	309	315	7*
Likely Independently Viable	11	199	208	9
Potentially Caused by Program	4	110	108	-2
Non-distressed	15	498	573	75
Likely Independently Viable	5	33	43	10
Potentially Caused by Program	10	465	530	65
Total	30	807	888	81

Source: Audit Office analysis of Nebraska Department of Labor information.

*Rounding error due to averaged quarterly employees.

Scope Question: *Is the Act meeting the goal of diversifying the state’s economy and positioning Nebraska for the future by stimulating entrepreneurial, high-tech, and renewable energy firms?*

Metric 8: High-tech and Renewable Firms – How many local businesses occupying renovated properties meet the definition of a high-tech or a renewable energy firm? (pgs. 47-48)

Result: In 2019, three businesses at renovated projects were high-tech firms. Two businesses met the definition of renewable energy companies.

Discussion: We were able to identify 30 businesses at the end of 2019 that were at project locations after renovation. Three of those were high-tech companies. They were in Sectors 5413 (Architectural, Engineering, and Related Services) and 5415 (Computer Systems Design and Related Services). These companies combined for 7 jobs at the end of 2019, and all were new to the state.

At the end of 2019, NHTC projects that completed renovation housed two renewable energy companies.

Scope Question: *What are the economic and fiscal impacts of the Act?*

Metric 9: Cost per Job – How much tax benefit did companies receive for each new job local businesses created at properties receiving credit? (pgs. 49-50)

Result: Combining the Bureau of Business Research’s job creation results with the amount of credits issued suggests a cost per job-year of \$5,931. Our but-for analysis estimates that the cost per job-year is \$13,726.

Metric 10: Cost versus Benefit – What is the Act’s total cost versus total benefit? (pgs. 51-53)

Result: The Act does not appear to have generated enough direct tax revenue to pay for itself. As shown in Figure J, available information suggests that for every dollar of credits issued, or foregone revenue, the Act generated \$0.25 in state taxes through 2019.

Figure J. The \$8.5 million estimated revenue generated was less than the revenue foregone.

	BBR Estimated Revenue Generated	Foregone Revenue	Revenue Generated as a Percentage of Foregone Revenue
State	\$4,271,900	\$16,934,556	25.2%
Local	\$4,270,400		25.2%
Total	\$8,542,300		50.4%

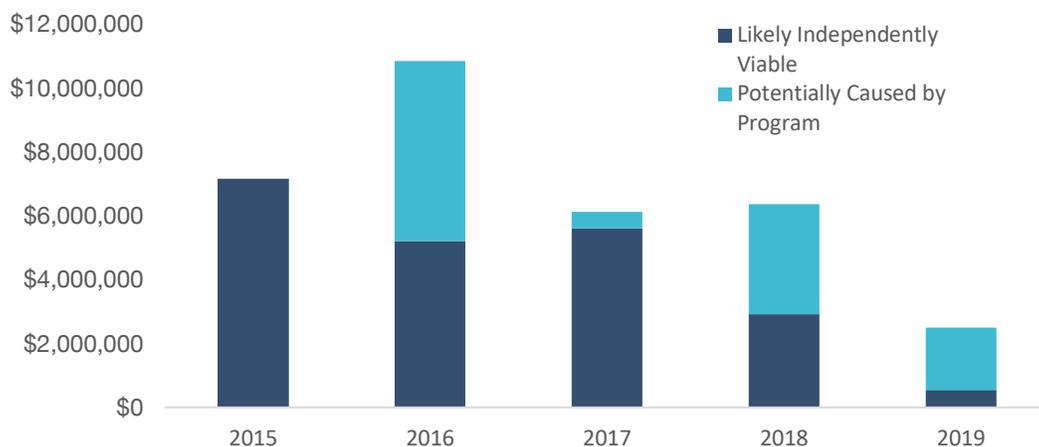
Source: Audit Office analysis using UNL BBR information.

Discussion: A full, independent, cost versus benefit analysis that includes but-for adjustments and long-term effects cannot be performed by the Audit Office without access to economic modeling software that can produce revenue generation estimates.

Metric 11: Federal Credits – How much federal credit did the Act bring to Nebraska? (pgs. 54-57)

Result: Through 2019, 31 projects that received Nebraska Historic Tax Credits also received \$32.9 million in Federal Historic Tax Credits. The data do not show an increase in federal projects after the program was created. We determined that up to \$11.5 million of federal credits from 22 of these 31 projects could have been induced by the state program, as shown in Figure K. The remaining projects were likely to have occurred without the state program and could not be credited with attracting federal projects.

Figure K. In most years after the start of the program, more federal credits were generated by projects that were likely independently viable.



Source: Audit Office analysis of federal HTC information.

Metric 12: Cost of Administration – What is the cost to administer the Act?
(pgs. 58-59)

Result: For the first two years of the program, the combined cost is estimated to have been over \$100,000 per year, which dropped in following years. History Nebraska’s administrative costs are paid for with application fees. The cost for Revenue Department review and distribution of credits, paid for with general funds, has dropped from a high of \$64,432 in 2016 to \$16,435 in 2019. The yearly breakdown is shown in Figure L.

Other than salaries and wages, the highest costs were for setting up the web application, used by both History Nebraska and the Department of Revenue (Revenue) for administering the program, and for economic impact statements contracted by History Nebraska.

Figure L. Yearly administration costs grew during program development and generally decreased after 2016.

Agency	2014	2015	2016	2017	2018	2019
History Nebraska	-	\$78,161	\$64,994	\$57,491	\$49,615	\$58,496
Revenue (estimated)	\$5,743	\$34,230	\$64,432	\$40,927	\$17,338	\$16,435
Total Cost (estimated)	\$5,743	\$112,390	\$129,426	\$98,419	\$66,953	\$74,930

Source: Audit Office analysis of data provided by History Nebraska and the Department of Revenue.

Scope Question: *Are adequate protections in place to ensure the fiscal impact of the Act does not increase substantially beyond the state’s expectations in future years?*

Metric 13: Fiscal Protections – Are adequate protections in place to ensure the fiscal impact of the Act does not increase substantially beyond the state’s expectations in future years? (pgs. 60-62)

Result: Comparing the Nebraska Historic Tax Credit to recommendations developed by The Pew Charitable Trusts, the design of the program contains some fiscal protections. However, publicly available information on costs is limited and there is no cost forecasting for this program.

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

Metric 14: Local Impact – What is the fiscal impact of the Act on the budgets of local governments? (pgs. 63-66)

Result: The Act does not provide funds to local governments or compel them to forego revenue, so there is no direct impact on local budgets. However, renovations caused by the program can increase valuations and resulting property tax revenues.

Discussion: Taxed valuations for projects that participated in the program were \$714,000 *lower* in 2019 than they were immediately prior to application. The vast majority of projects subject to property tax also used a program that freezes its valuation, and therefore limits the amount of tax that property pays to local governments, for eight to fifteen years. However, the estimated total project valuation increase after NHTC projects end participation in those programs is more than \$78 million.

Scope Question: *What can be done to improve future audits?*

Discussion: Suggestions for the improvement of future evaluations can be found in the recommendations for Legislative Intent, Independently Viable Projects, and the Jobs Metric.

II. Legislative Audit Office Report

Legislative Audit Office Report
**Job Creation and Mainstreet Revitalization Act:
Performance on Selected Metrics**

August 2021

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Compliance Statement

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

¹ Neb. Rev. Stat. § 50-1205.01.

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INTRODUCTION

The Legislative Audit Office (Office) is required to conduct a performance audit of each business tax incentive program at least once every five years. In 2016, we released the first performance audit under the requirement. We have released reports on the Nebraska Advantage Act, the Beginning Farmer Tax Credit Act, the Nebraska Advantage Microenterprise Act, and the New Markets Job Growth Investment Act. This is the first audit of the Job Creation and Mainstreet Revitalization Act.

Job Creation and Mainstreet Revitalization Act

The Legislature passed the Job Creation and Mainstreet Revitalization Act, commonly referred to as the Nebraska Historic Tax Credit, or NHTC, in 2014. The Act was modeled after the federal historic preservation tax credit program as well as programs in other states that provide tax credits for rehabilitating older buildings with certain officially recognized historic significance.

Section I of this report describes the Historic Tax Credit and provides an analysis of descriptive program information. Section II contains our analysis of specific metrics.

Measuring Effectiveness

In previous reports, the Office has noted that it is difficult to determine whether Nebraska's tax incentive programs are effective because the laws creating them do not have clear legislative goals or specific measures of success. To address these issues with assessing effectiveness, the Performance Audit Committee introduced, and the Legislature passed, LR 444 which authorized an interim study that identified metrics for tax incentive performance audits. LB 538 (2015) required the Legislative Audit Office to perform ongoing tax incentive audits, using the recommended metrics in LR 444 when possible.

Not all LR 444 metrics are applicable to all tax incentive programs. The Office identified 9 metrics from the report that can be used in evaluating the Historic Tax Credit. When applicable, we also used metrics derived from the statutes that created the incentive program, found in § 50-1209 of the Legislative Performance Audit Act and discussed in the legislative history. The following table lists the metrics used in this audit and their source.

Metrics for Nebraska Historic Tax Credit Act Audit

Source	Description
LR 444	Job creation
LR 444	Cost per job
LR 444	Wages
Audit Statute	New to Nebraska
LR 444	New investment
LR 444	Rural areas
LR 444	Distressed areas
Audit Statute	High-tech and renewable energy firms
Audit Statute	Economic and fiscal impacts
LR 444	Cost for agency to administer and promote the Act
LR 444	Cost for businesses to comply with the Act
LR 444	Cost-benefit analysis
Legislative History	Federal credits brought into Nebraska
Audit Statute	Fiscal protections
Audit Statute	Local impact

Acknowledgements

The Legislative Audit office extends special thanks to History Nebraska Director Trevor Jones, Tax Commissioner Tony Fulton, and Commissioner of Labor John Albin. We also appreciate the assistance of Liz Gau, Kate Knapp, Mary Hugo, Robert Wagner, Lee Glaser, and Ron Gottula at the Department of Revenue; Ryan Reed and Jill Dolberg at History Nebraska; and Scott Hunzeker at the Department of Labor.

SECTION I: The Job Creation and Mainstreet Revitalization Act

In this section, we describe the Job Creation and Mainstreet Revitalization Act, program participation, and credit use from 2015 to 2019. How the program performed on specific metrics is discussed in detail in Section II.

How the Job Creation and Mainstreet Revitalization Act Works

LB 191 (2014) created the Job Creation and Mainstreet Revitalization Act, commonly referred to as the Nebraska Historic Tax Credit (NHTC). The NHTC program was modeled after the federal historic preservation credit program as well as programs in other states. The federal and state programs provide tax credits for rehabilitating older buildings with certain officially recognized historic significance, either on their own merit or as a part of a designated historic district.

The first federal historic preservation credits were authorized in the Tax Reform Act of 1976, which has been amended over the years into the federal Historic Tax Incentives program. The federal credit is equal to 20% of a project's qualified expenditures and has no annual or lifetime cap for participants. Nebraska's program offers a 20% credit for qualified expenditures of up to \$5 million, for a maximum individual project credit of \$1 million. The program can allocate credits of up to \$15 million in each calendar year. A project can receive both federal and state credits, and many do receive both.

Seeking to extend the program, LB 194 (2021) is currently on general file, with a pending committee amendment. The bill lowers the minimum project size threshold from \$25,000 to \$5,000, making more projects eligible, and increases the credit to 25% in counties that includes a metropolitan or primary class city and 30% in all other counties. It requires an annual joint report on the program and repeals the sunset date entirely. The amendment keeps the increased credit, but limits the program to \$12 million annually, while designating \$4 million of that to projects of less than \$100,000. It sets a due date of December 31 for the annual joint report on the program and sunsets applications to the program on December 31, 2029. Credit allocation, issuance, and use would sunset December 31, 2034.

Application Process

NHTC applications can be submitted at any time of the year and credits are allocated on a first come, first served basis. Once the available credits have been allocated, the application period closes until the next calendar year. Applicants can withdraw an application at any time or History Nebraska may reject the application by deeming them incomplete or denying project eligibility.

Nebraska's application consists of five parts that must be submitted in sequential order. Parts 1, 2, and 3 are administered by the State Historic Preservation Officer at History Nebraska, the state's historical society, while Parts 4 and 5 are administered by the Nebraska Department of Revenue.

Application fees, set at a percentage of the requested credits, are required for Part 2, Part 3, and Part 4 applications. Part 2 and Part 3 fees are set by History Nebraska to cover the administration costs of the program. Part 4 fees are set in statute at 0.25% of the requested credits and credited to the Civic and Community Center Financing Fund. Further discussion of fees will be found in Section II under Cost of Compliance and Cost of Administration, on pages 39 and 58, respectively.

Part 1: Historic Structure Certification

In this initial step, the applicant provides general information to demonstrate the project property is, or potentially is, historically significant real property. If the property is already individually recognized on the National Register, Part 1 is a formality. If not, the applicant documents any recognition it does have, as well as a statement of historic significance and economic viability. Where no previous historic recognition is registered, History Nebraska can approve the Part 1 application with a preliminary determination of historic significance.

Part 2: Qualified Rehabilitation Certification

In Part 2, the applicant submits information on the proposed rehabilitation work to show that the project qualifies for tax credits under the U.S. Secretary of the Interior's Standards for Rehabilitation. While there is an emphasis on rehabilitation work potentially eligible for the historic preservation credit, the applicant is asked to include the plans for all scheduled rehabilitation to the project property.

Eligible expenditures must be at least \$25,000 but no more than \$5 million per project. This equates to a 20% credit of between \$5,000 and \$1 million per project.

The Part 2 application is required to be completed before construction work starts on the project. After History Nebraska certifies that the proposed expenditures meet the eligibility requirements, tax credits are reserved for the project.

Part 3: Completed Rehabilitation Certification

In Part 3, History Nebraska makes the final certification as to whether the rehabilitation work is eligible for tax credits. This application must be submitted within 12 months of completing renovation and placing the property in service. If the project received a preliminary determination of historic significance in Part 1, it must receive an official designation before the Part 3 application can be approved. Once a Part 3 application is deemed complete by History Nebraska, administration of the application process transfers to the Nebraska Department of Revenue.

Part 4: Request for Certification of Credits

The Nebraska Department of Revenue (Revenue) reviews submitted expenditures and calculates the tax credits to be issued based on the expenditures Revenue deems eligible according to the federal rehabilitation standards. Credit owners may use credits to offset income tax, the franchise tax imposed on financial institutions, or the premium tax imposed on insurance companies. Credits are not refundable, meaning the taxpayer can only receive a credit amount equal to the taxes they owe. However, most credits are transferable.

The program allows for-profit organizations, political subdivisions, and non-profit organizations to receive tax credits. Political subdivisions and non-profit organizations receive only Type A credit certificates, 100% of which may be transferred outside of the ownership group. Because these entities have no income tax liability, they have less opportunity to use their credits directly. Transferability allows them to use credits by selling them or using them as collateral for financing.

For-profit entities receive half of their credits in Type A certificates and half in Type B certificates, which the law states may not be transferred. However, there are legal means by which applicants may broaden their ownership organization in a way that essentially allows the Type B non-transferrable certificates to be transferred outside of the core ownership group. This practice is described in the Credit Efficiencies discussion at the end of this section.

Part 5: Request for Transfer, Sale, Assignment, or Distribution of Credits

The Part 5 application ensures that only eligible taxpayers can claim program tax credits. To apply the tax credits to owed taxes, the taxpayer must own the credit certificate. Individual ownership of the credits through the certificates is processed through Part 5. Any transfer or distribution of tax certificates must have a Part 5 application submitted within 15 days for Revenue to confirm compliance with the law. This may be as simple as confirming with the recipient. Certificates from Type B credits may be more complicated due to statutory limitations on transfers. If Revenue denies a Part 5 application, the application must be amended or resubmitted. Once Revenue approves the distribution, new certificates are issued to the recipient credit owners, and the transferred or distributed amount is deducted from the transferor's credit balance.

Program Participation: 2015 to 2019

Applications

History Nebraska received 146 Part 1 applications from calendar years 2015 to 2019. Of those applications, 117 are considered viable. History Nebraska rejected 8 applications and applicants withdrew 21 applications. The most applications were filed in the first year of the program. There has been a noticeable reduction in applications since the program began, as shown in Figure 1.1. We did not examine the possible explanations for the decrease.

Figure 1.1. Applications dropped noticeably after the first year of the program.



Source: Audit Office analysis of NHTC data.

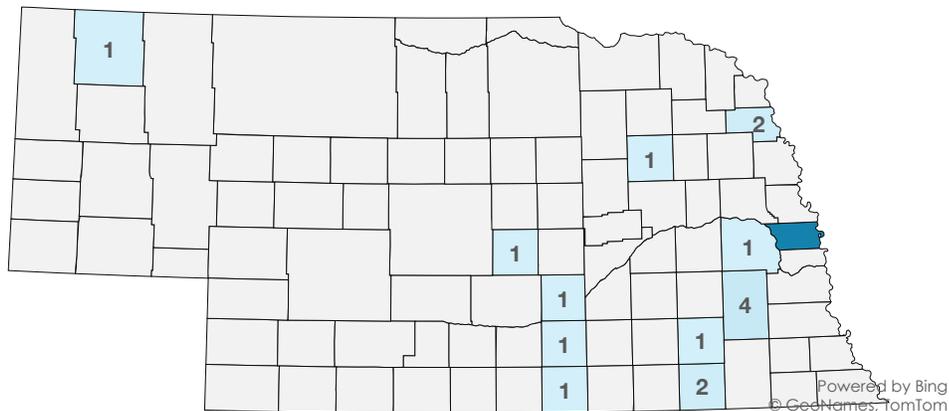
Completed Projects

From the 117 viable applications, we reviewed the 68 projects that had submitted a Part 3 application by the end of 2019. Because projects have up to 12 months after completion to submit their Part 4 applications, and the process of auditing and issuing credits can take some time, we did not limit our review to only projects that were issued credits. Examining projects that had at completed at least a Part 3 application allowed us to have a larger pool for analysis. This means we looked at all projects that had completed construction and had been placed in service by the end of 2019.

Geographic Locations

The 68 projects were located in 12 of Nebraska’s 93 counties. The majority of the projects (52 or 77%) were in Douglas County. Lancaster County had 4 projects, Jefferson County and Thurston County had 2 projects each, while the remaining counties—Adams, Dawes, Madison, Hall, Saline, Saunders, Sherman, and Webster—each had 1 project, as shown in Figure 1.2.

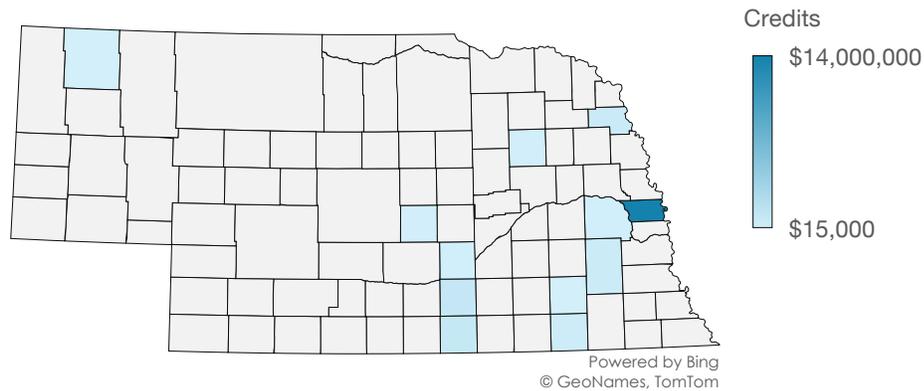
Figure 1.2. Douglas County had the most projects.



Source: Audit Office analysis of NHTC data.

Of the 68 completed projects, 39 projects in ten counties received credits by the end of 2019. Douglas County had the highest number of credit-earning projects at 29, receiving \$13.8 million in credits, as shown in Figure 1.3.

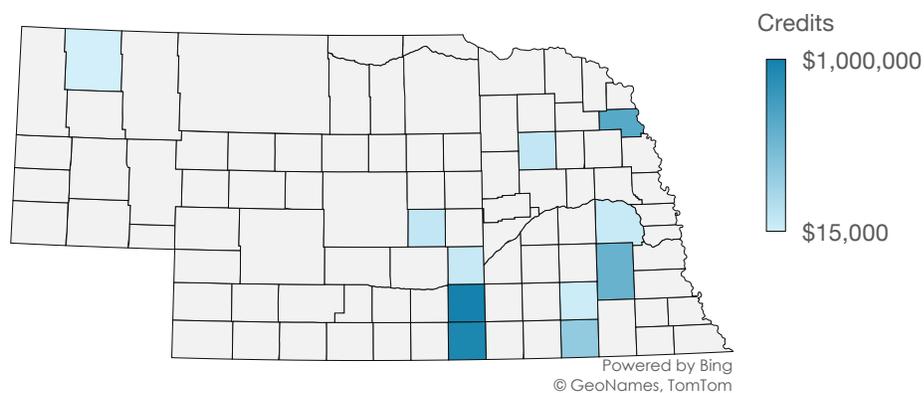
Figure 1.3. Projects in Douglas County received the highest total credit amount.



Source: Audit Office analysis of NHTC data.

Figure 1.4 shows more detail for the nine other counties that had either one or two credit-earning projects: Adams, Hall, Jefferson, Lancaster, Madison, Saline, Sounders, Thurston, and Webster. Among these counties, Adams and Webster received the highest credits amounts. Credit amounts for counties that have less than 10 credit earning projects are not reported to protect taxpayer confidentiality.

Figure 1.4. The other nine counties each received between \$15,000 and \$1 million in credits.



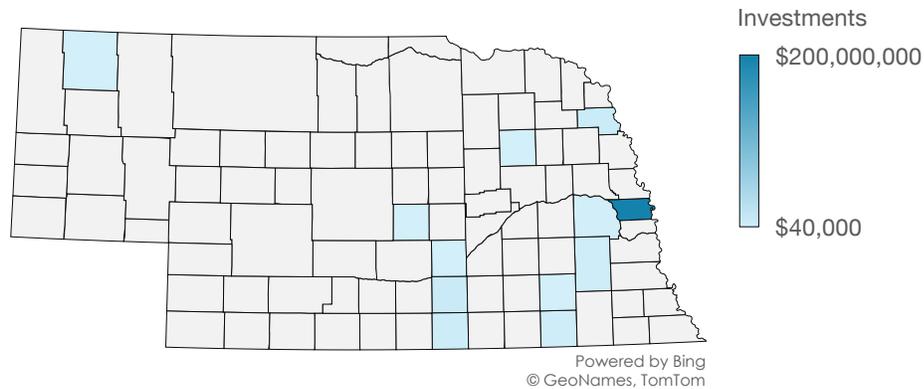
Source: Audit Office analysis of NHTC data.

More detailed credit use breakdowns can be found in Rural Areas and Distressed Areas portions of Section II on pages 41 and 44.

Investment

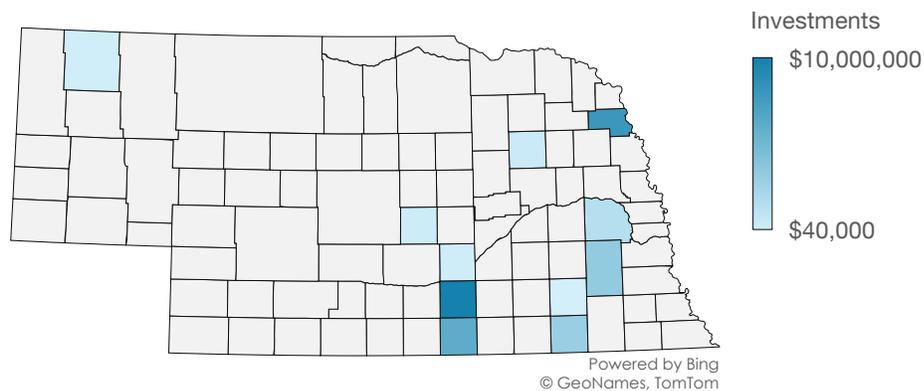
From 2015 to 2019, more than \$232 million was invested in the projects we reviewed. The vast majority of the investments, nearly \$200 million, or 86%, was in Douglas County, as shown in Figure 1.5. The next highest counties were Adams County and Thurston County with more than \$9 million and \$8 million respectively, as shown in Figure 1.6.

Figure 1.5. Total project renovation investments were highest in Douglas County.



Source: Audit Office analysis of NHTC data.

Figure 1.6. Adams County and Thurston County had the next highest total project investments.



Source: Audit Office analysis of NHTC data.

Detailed discussion about investment amounts can be found in the Rural Areas and the Distressed Areas discussions on pages 41 and 44 of the report.

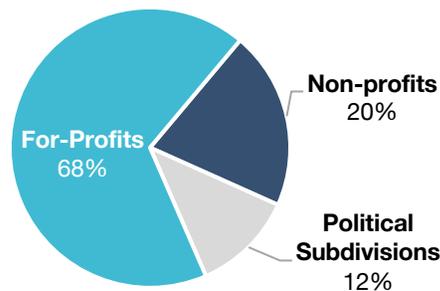
Applicant Types

The law allows for-profit organizations, political subdivisions, and non-profit organizations to receive tax credits. Floor debate suggests that proponents wanted to design a program that would encourage use by non-profit organizations and political subdivisions, providing them with funding opportunities that would otherwise be

unavailable. They believed that, given the differing priorities of these organizations, encouraging a broader applicant group would promote more diverse projects, benefitting the broader community in addition to the local economy.

In total, 34 unique entities submitted 68 project applications. Seven non-profit organizations submitted at least one project application, with one organization submitting 24 applications. Other non-profit organizations submitted between 1 and 4 applications. Each of the four political subdivisions submitted only one application. The 23 for-profit organizations submitted between 1 and 8 applications each. Twice as many for-profit organizations submitted applications as non-profit organizations and political subdivisions combined, as shown in Figure 1.7.

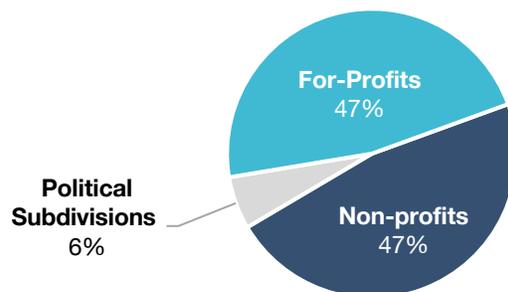
Figure 1.7. Twice as many for-profit organizations initiated projects as non-profit organizations and political subdivisions combined.



Source: Audit Office analysis of NHTC data.

Although Figure 1.7 shows that fewer non-profit organizations used the program, they submitted as many project applications as for-profits. As shown in Figure 1.8, for-profit and non-profit organizations each submitted slightly less than half of the total project applications. Political subdivisions sponsored fewer than 10% of projects.

Figure 1.8. Most projects were initiated by non-profit or for-profit organizations.

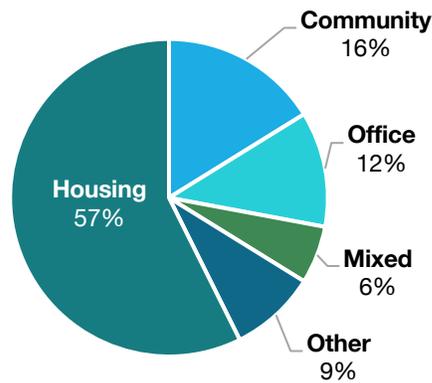


Source: Audit Office analysis of NHTC data.

Project Purposes

Applicants are asked to provide an intended purpose for the project site after renovation. This is an open-ended question with no provided categories, and response is voluntary because the intended purpose of the project has no bearing on whether the application will be approved. As shown in Figure 1.9, most projects had purposes that fell into four categories: Housing, Office, Community, or Mixed Use. More than half were housing projects. The “other” projects were a mixture of commerce, county business, and infrastructure, though these accounted for less than 10% of projects.

Figure 1.9. More than half of projects had a primary purpose of housing.



Source: Audit Office analysis of NHTC data.

Issued Credit

Projects are allocated credits after their Part 2 applications have been reviewed by History Nebraska. Individual projects have their own timelines, and participants have up to 12 months after the project is placed in service to file for credits. Time is also needed for the Department of Revenue to review expenditures, certify final credit amounts, and issue credits to the taxpayer. The time between when credits are allocated and when they are certified and issued results in some uncertainty in predicting when allocated credits will finally be issued. This leads to the possibility that several projects with allocations in different years could end up with their credits being issued in the same year.

In the first five years of the program, 39 projects were issued \$16.9 million in credits. Seventeen projects were issued credits in 2017, worth about \$8 million. No other year had more credits issued than 2017. Yearly details are shown in Figure 1.10.

Figure 1.10. The most credits were issued in 2017.

Year	Projects	Credits
2017*	18	\$8,204,616
2018	11	\$3,024,119
2019	10	\$5,705,821
Total	39	\$16,934,556

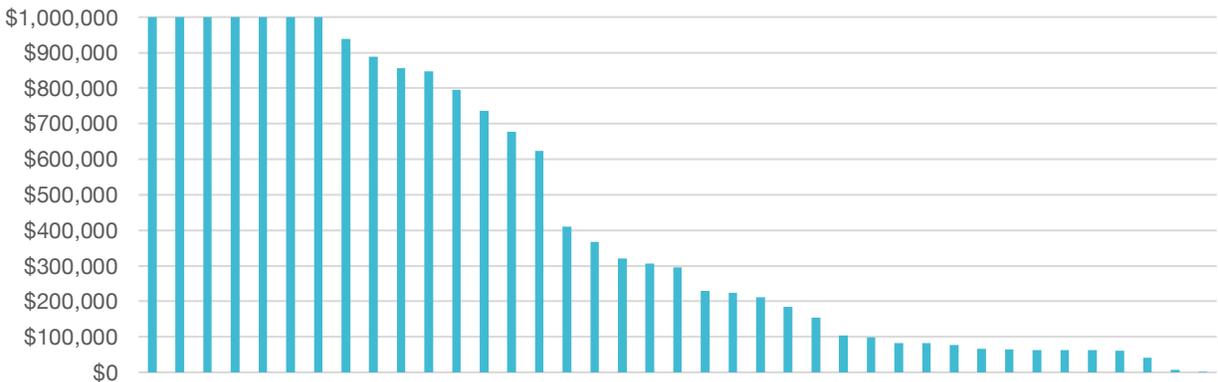
Source: Audit Office analysis of NHTC data.

* Combined 2016 and 2017 to protect taxpayer confidentiality.

Project Size—Earned Credits

Proponents of the Historic Tax Credit suggested it would benefit mostly smaller projects and that there would be one or two projects that earned the maximum one million dollars in credits. As shown in Figure 1.11, in the first five years of the NHTC, seven projects received \$1 million in credits. The nine largest projects combined received \$8.8 million. The other 30 received \$8.1 million. Of these, 24 projects received less than \$500,000, while 19 projects received less than \$250,000.

Figure 1.11. Seven projects received \$1 million in credits.



Source: Audit Office analysis of Department of Revenue data.

Credit Efficiency

Audits from several other states have found their historic tax credits are not the most efficient way to aid historic property redevelopment. For example, Missouri auditors found that 49% to 85% of their tax credit went toward rehabilitation costs while the rest went to “investors, tax credit brokers or syndicators, and the federal and state government in the form of income taxes”.¹ Efficiency is lost because credits are generally sold for less than their full value and because of the costs inherent in syndication agreements, which are used to indirectly transfer credits to other entities. In both cases, the amount of credit that ends up being used for rehabilitation is less than what the state provides the taxpayer.

¹ Office of the Missouri State Auditor, *Economic Development Historic Preservation Tax Credit Program*, March 2014.

The Nebraska program contains this same inefficiency. For example, our review of Nebraska Tax Increment Financing applications that included historic preservation tax credit projects showed that developers could sometimes expect to use as little as 65% of the value of their state tax credits toward the project itself. Program options that may be more efficient are discussed at the end of this section.

Credit Sales

NHTC participants are allowed to sell their credits: political subdivisions and non-profit organizations may sell all of their credits, but for-profit entities may sell, at most, half of theirs. When credits are sold, the credit holder will sell them at a loss, which means they will not be able to use the full value of the credits to pay project costs. The entity that buys the credits generally pays less than 100% of the credits' value because without a discount, there would be no financial advantage to purchasing credits rather than paying their taxes.

Syndication Agreements

Although the law prohibits for-profit entities from selling or transferring half of their credits, there are legal options that allow them to do so indirectly. Project developers can create joint ownership corporations with other organization to allow credit to be indirectly transferred outside of the original entity that planned to apply for the credits. We describe these as "indirect" transfers because instead of credits being directly transferred from the entity that earned them to an investor, a corporation is created that includes both parties and the credits are distributed among the parties.

Most commonly, this is done by converting expected future credits into earlier project financing through a syndication agreement between the original project developer and an outside investor (sometimes called a syndicator) prior to the developer's application for credits. Under the agreement, the syndicator provides up-front financing for a project in exchange for the expected tax credits and other potential benefits, which may include ownership of the project, lease payments, and various fees. Syndication agreement financing can be very complex and reduces the direct impact of the tax credit. Constructing such an agreement takes time and adds costs for lawyers, accountants, creation of pass-through entities, closing costs, interest, and various fees.

This type of agreement does not violate the law's requirement that half of a for-profit organization's credits not be transferred, because the agreement essentially brings entities that would otherwise be considered outside the applicant organization inside the organization through the creation of a jointly owned Limited Liability Corporation (LLC). When the credits are received, the LLC moves the credits through its ownership structure. The syndicator receives credits through its membership in the corporation, so the credit is not being sold or transferred in the commonly understood meaning of those terms. This type of agreement can avoid taxes that would be incurred on a credit sale and side-steps transferability restrictions.

Syndication agreements are appropriate in many circumstances. For example, if a project receives both the state and federal historic preservation credits, this type of agreement is often necessary because federal credits are 100% non-transferable and non-refundable. It is a way for developers, who typically do not have much income tax liability, to be able to convert an income tax credit into usable funding. However, based on legislative discussion of the bill creating the NHTC program, use of syndication agreements arguably conflicts with what some senators intended by the prohibition on sale or transfer of 50% of the credits earned by for-profit developers.

The NHTC was the first business tax incentive in the state to allow credit transferability, with the original intent of encouraging smaller developers and non-profits to participate by providing funding flexibility, as well as ensuring more of the credit to be directed towards projects. For example, if a project needs additional upfront funding, transferability allows the developer to use credits as collateral on a loan.

The introduced version of the NHTC bill provided 100% transferability of credits to for-profit entities, as it did for non-profits and political subdivisions. The amount was reduced to half during legislative debate as a compromise with senators who did not want a “secondary market” for buying and selling credits to be created, or to set a precedent that could lead to allowing transferability in other incentive programs.

However, in practical terms, preventing transferability in the law does not eliminate the indirect buying and selling of credits. These kinds of transfers are accomplished through syndication agreements. The restriction on transferability can have the opposite of its intended effect by forcing some projects to use higher cost syndication agreements rather than directly transferring the credits in exchange for up-front project funding.

Experience in Other States

In addition to the Missouri audit mentioned at the beginning of this section, evaluations of programs in Alabama, Iowa, Indiana, Minnesota, Ohio, and Texas reported similar circumstances where state tax credits were directed away from their intended use through credit sales and syndication agreements.

Finding: Evidence from other state program evaluations and Nebraska Historic Tax Credit projects shows that there are more efficient options for funding historic property redevelopment which can increase the percentage of issued credits that are used for renovation.

Finding: Specifically, the restriction on for-profit entities that 50% of credits cannot be transferred did not prevent credits from entering a secondary market or moving to entities that aren't developers, as some legislators intended. In some cases, it may have the opposite effect, as developers who are unable to directly transfer credits must rely on other means, such as syndication agreements, to fund their projects.

Improving Efficiency

Ways to potentially improve credit efficiency have also been identified in other states' evaluations. The following is a list of policy changes that the Legislature could explore to potentially increase the percentage of tax credits going directly to rehabilitation.

Full Refundability

Alabama, Indiana, and Missouri evaluations suggest that full refundability—meaning allowing the applicant to receive cash for any credits left after their tax liability is paid—would improve credit efficiency. This could reduce the need for credits to be sold at a discount to other entities, allowing more credit to be directed toward renovation.

Making the Credits Fully Transferable

Making 100% of credits fully transferable for for-profit entities would give taxpayers more options to find the best value for their credits and improve their efficiency by directing more of the state's foregone revenue to the program's intended purpose.

Setting a Standard Transfer Price

This option would require that transferred credits be sold for not less than a set percentage of their value. For example, Alabama requires transfers to be sold for at least 85% of the value of the credit.

Change the Credits to Grants

Some states have found grants to be more efficient than credits. A grant program would direct a higher percentage of credits toward renovation projects, and could be designed to provide benefits up-front, lessening the need for financing through interest loans or syndication agreements. For example, in a 2014 evaluation of Missouri's historic preservation tax credit, auditors stated that "Eliminating the use of state tax credits and utilizing direct appropriations through a state agency to fund historic rehabilitation projects would be the simplest and the most administratively efficient means of improving the efficiency of the state's historic preservation program".² Similarly, Minnesota allows taxpayers to choose whether their benefit comes in the form of a grant or a tax credit. Indiana switched to a grant program in 2016. The Ohio 2020 Tax Policy Study Commission recommended exploring the use of grants.

² Office of the Missouri State Auditor, *Economic Development Historic Preservation Tax Credit Program*, March 2014.

Project Specific Limitations to Efficiency Improvement

We have mentioned several ways that other states have tried to improve efficiency. However, there is no universal solution to create 100% efficient credit options for all projects. While modifications to the program could improve efficiency, even if the most credit-efficient design options are available to developers, there will still be projects that use syndication agreements either because there are federal credits that need to be monetized, or because other aspects of the agreement make it a favorable option. Each project has different needs and financing options available to them. Having more efficient options available may not direct all of the state's credits to renovations as intended by the program, but it will direct more to that purpose.

SECTION II: The Job Creation and Mainstreet Rehabilitation Act's Effect on the State Economy

This section contains the results of the Audit Office's analysis of the selected Nebraska Historic Tax Credit (NHTC) metrics. The individual scope questions, which include the metrics utilized to answer each question, are listed below. Note that some information related to the metrics is also found Section I of the report. The final scope question is addressed in the Audit Summary and Committee Recommendations.

Scope Question: Is the Act meeting the goal of strengthening the state's economy overall by attracting new business to the state, expanding existing businesses, increasing employment, creating high-quality jobs, and increasing business investment?

Metric 1: Jobs - How many local jobs did businesses occupying renovated properties create during the time period?

Metric 2: Wages - Were the average wages at businesses occupying properties receiving credit higher or lower than the average wages of all Nebraska jobs in the same industries?

Metric 3: Investment - How much new investment was generated through the Act?

Metric 4: New to Nebraska - How many local businesses occupying renovated properties were new to the state?

Metric 5: Cost of Compliance - What is the cost for businesses to comply with the Act?

Scope Question: Is the Act meeting the goal of revitalizing rural and other distressed areas of the state?

Metric 6: Rural Areas - To what extent are tax credits being utilized in connection with renovations in rural areas?

Metric 7: Distressed Areas - To what extent are tax credits being utilized in connection with renovations in distressed areas?

Scope Question: Is the Act meeting the goal of diversifying the state's economy and positioning Nebraska for the future by stimulating entrepreneurial, high-tech, and renewable energy firms?

Metric 8: High-tech and Renewable Energy Firms - How many local businesses occupying renovated properties meet the definition a high-tech or a renewable energy firm?

Scope Question: What are the economic and fiscal impacts of the Act?

Metric 9: Cost per Job - How much tax benefit did companies receive for each new job local businesses created at properties receiving credit?

Metric 10: Cost vs. Benefit - What is the Act's total cost vs. total benefit?

Metric 11: Federal Credits - How much federal credit did the Act bring to Nebraska?

Metric 12: Cost of Administration - What is the cost to administer the Act?

Scope Question: Are adequate protections in place to ensure the fiscal impact of the Act does not increase substantially beyond the state's expectations in future years?

Metric 13: Fiscal Protections - Are adequate protections in place to ensure the fiscal impact of the Act does not increase substantially beyond the state's expectations in future years?

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

Metric 14: Local Impact - What is the fiscal impact of the Act on the budgets of local governments?

Scope Question: What can be done to improve future audits?

The “But-for” Question

Before discussing the individual metrics, we need to explain how we approached a question common to all tax incentive programs: did the tax incentive program cause the taxpayer to undertake a project, or would the project have happened even without the credit? This is the usually called the “but-for” question. In other words, would the project have occurred but-for the incentive?

Academics who study tax incentives as well as professionals within the Nebraska Department of Revenue and the Legislative Fiscal office agree that tax incentives cannot be assumed to have caused all the economic activity associated with them. The question is not “Would some of the projects have happened anyway?” but “How many?” Recent research by economist Tim Bartik of the Upjohn Institute suggests 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 without the incentive.

In previous tax incentive performance audits, we have used those percentages to provide a range of estimates regarding the likelihood that the economic activity associated with the audited program could be said to have been caused by the program. For the Historic Tax Credit, however, we have taken a different approach. We looked at participating projects on a case-by-case basis, using logic consistent with knowledge about tax incentives and project development, to estimate whether it was more likely or less likely the project would have taken place without the credit. We were able to do this for the Historic Tax Credit because the program is structured with an upfront application and is limited to a specific economic activity. In addition, more information relevant to but-for consideration was available for this program that has not been available for other tax incentives we have audited.

Historic Tax Credit But-for Methodology

Our goal with this analysis was to determine whether any of the projects we reviewed were independently viable, meaning they would likely have been undertaken even without the Nebraska Historic Tax Credit. We started our analysis with the conservative assumption that the NHTC was essential to the financial viability of all 68 projects we reviewed.

Tax credit programs are intended to “tip” projects that are not financially viable into viability, and we identified three factors that can suggest the credit was *not essential* to project viability. We applied those to each project, and the result was 14 projects we believe were likely to have been independently viable without the historic preservation credit.³ For ease of readability, we sometimes use the term “independently viable” without the qualifier “likely to have been.” However, in all instances we are referring to likelihood, not asserting causation.

³ We believe that another 13 projects *may have been* financially viable without the credit—they partially matched our criteria but not conclusively. In the results, they are included in the 54 projects more likely to have been tipped by the credit.

We report metric results for the whole group of 68 projects as well as on the 54 we believed were more likely to have been “tipped,” or dependent upon, the credit for financial viability.

Finding: Of the 68 projects reviewed, we identified 14 (21%) that we believe were independently viable, meaning the projects would likely have been undertaken even without receipt of the Nebraska Historic Tax Credit. Said another way, we believe 79% of projects were more likely to have been “tipped,” or dependent upon, the credit for financial viability.

Projects that were Likely Independently Viable without the Historic Tax Credit

We reviewed three factors, each of which suggested that the project may have not needed the historic tax credit to be financially viable. The first two factors are construction before the program application had been submitted and the amount of the credit was a small proportion of the total project costs. The third, which applied only to projects that also had applications for the Tax Increment Financing program, is whether those applications indicated that the NHTC was part of the project’s budget. A discussion of each factor follows.

Because this methodology was developed by the Audit Office, we were conservative in selecting the benchmarks used in each factor to determine independent viability. Due to the nature of the methodologies we use, the overall results of our case-by-case analysis should not be used to project or estimate but-for probabilities into the future. There are specific reasons for this precaution that are related to the factors we use, which are discussed in their methodological descriptions.

Fourteen projects met one or more of the factors suggestive of financial viability without the credit, including:

- Seven that were under construction at least 6 months before the application was filed;
- Six that had small amounts of credit in proportion to the total project cost; and
- Six that publicly attested to financial viability without the credit.⁴

Construction before Application

The first factor was project construction that had begun prior to a Part 1 application for historic preservation credits (*see the sidebar on the following page for a reminder of the application process*). We used the construction start dates reported by applicants after construction was completed.

⁴ The number of projects totals more than 14 because 4 projects met more than one factor.

If their initial application was submitted more than *six months after* their construction start date, we identified that project as independently viable. We believe this is a generous benchmark. This means that a project can complete all its development phase work, including securing the building, evaluating its potential cost vs. benefit, selecting architects, finalizing ownership structure, securing financing, submitting permits, and selecting construction bids, and then perform six months of construction work. We only identify a project as independently viable if they didn't first apply for credits until after all that activity.

We found seven projects in which construction began more than six months before applications for NHTC were submitted—three of them began construction more than a year before the program began accepting applications. All seven submitted their applications in the first year of the program. These projects were already underway when the program first started taking applications and likely applied seeking to maximize profits—not because the credits were essential for project funding.⁵ Consequently, this factor is likely to detect fewer independently viable projects in the future.

Timelines Considered

We considered several potential timeline benchmarks while developing this factor. We briefly discuss three of them to provide a better understanding our approach. Before describing them, we outline a simplified version of the basic project process. Figure 2.1 uses a hypothetical project to illustrate the development of the construction timeline options we considered. This hypothetical project had 6 months of pre-construction development and 12 months of construction before it was placed in service.

Figure 2.1. Hypothetical Project Timeline



Application Process Outline

Part 1 – Indicates interest in the program. Asks History Nebraska to confirm that the site is eligible.

Part 2 - Provides HN with renovation plan, estimated expenditures and credits. Approval of Part 2 reserves credits.

Part 3- Submitted to HN after completed renovation. Asks HN to approve that project is completed and meets standards.

Part 4 – Submitted to Department of Revenue to request certification of credits. Expenditures audited.

Part 5 – Submitted to Department of Revenue to use or transfer credits.

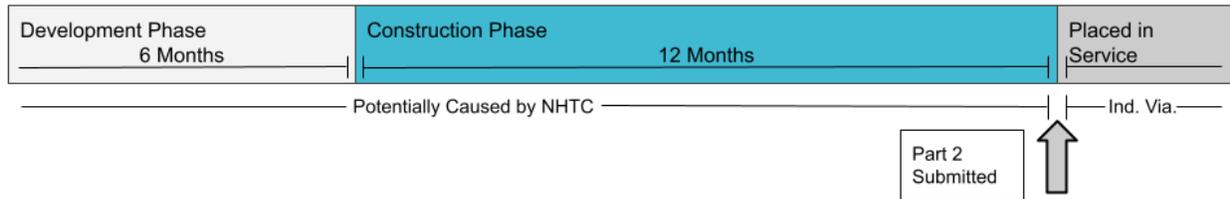
Additional details on the application process can be found in Section I.

⁵ Neb. Rev. Stat. § 77-2905(1) requires that applications for credits be filed “prior to commencing work” on the project. Additional procedures are now in place to prevent projects from starting construction prior to applying to the program.

Conservative Benchmark Considered

The most conservative benchmark for independent viability we considered was for projects that were completed and placed in service before the developer submitted their Part 2 application, which is used to estimate eligible expenditures and reserve tax credits (Figure 2.1a). Using this benchmark, only projects that were completely finished and ready for their intended use *before* applying for credits would have been considered independently viable. In the figure below, we show how this conservative option would look using our hypothetical timeline. The benchmark is indicated by an arrow.

Figure 2.1a. Most Conservative Option



Aggressive Benchmark Considered

The most aggressive benchmark we considered was to label as independently viable any project that applied for credits after financing was secured (Figure 2.1b). Logically, if NHTC is critically necessary for funding and a project cannot move forward without it, the funds would be applied for prior to finalizing the financing structure and before construction starts. We did not pursue this benchmark because there was not enough information available on all cases to determine when financing was finalized. The figure below shows how this option would have looked using the hypothetical timeline.

Figure 2.1b. Most Aggressive Option

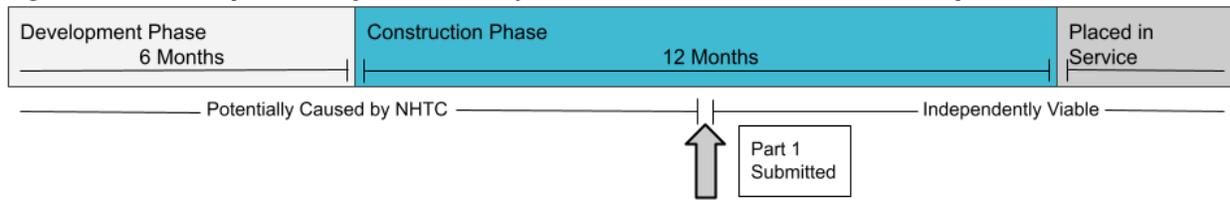


Benchmark Used for Analysis

The timeline we chose to use falls between the two extremes and allows up to six months of construction prior to filing of the initial application (Figure 2.1c) before we consider the project independently viable. We chose this benchmark for two reasons. First, sufficient data was available for every project to be analyzed. Second, rather than use the reported construction start date, we chose to use a later date to allow for potential technical difficulties in the application process. This also accounts for projects that may have attempted to time their construction and application dates to coincide with the start of the program. Six months of leeway is generous enough to account for these possibilities. Figure 2.1c shows the benchmark we used. If a project submitted their first application to the program at any time to the left of the arrow, it was identified as potentially caused by

the program. Any project that submitted their first application at a time to the right of the arrow was identified as independently viable.

Figure 2.1c. Independently Viable Project Benchmark Used in this Report



Credit Proportion of Total Project Cost

The amount of credit that a project receives may affect the size of the project and/or tip the project into being viable by reducing total costs. We focused on whether the credit was large enough to potentially tip the project into viability. The tax incentive literature indicates that for an incentive to be the deciding factor in whether to undertake a project, the credit must be a significant part of the project funding. There is no set percentage of funding defined as “significant” and we selected a conservative amount—5%. Projects that used Historic Tax Credits to cover less than 5% of their total costs were labeled as independently viable.

Of the 68 projects we reviewed, 39 were completed and had credit issued to them by the end of 2019. Six of the completed projects received credits amounting to 5% or less of their total costs. They had credit to project cost ratios of 4.21%, 3.65%, 2.17%, 1.80%, 1.61% and 0.51%. Four projects of 68 were determined to be independently viable on credit size alone.⁶

Projects Found Viable in Tax Increment Financing Applications

Publicly available Tax Increment Financing (TIF) applications allowed for a unique view into the financing structure of some historic preservation projects. Twenty-five of the NHTC projects also received TIF financing and documentation was publicly available for many of them. We found six projects with TIF applications showing the historic preservation credit was not necessary for project funding, including one that explicitly stated that the “applicant does not plan to use [historic tax credits] as a source for this project.”

By law, TIF applicants must complete a “statement of need” analysis to demonstrate that TIF financing is *necessary* to make their redevelopment project viable.⁷ Applicants must report the expected project cost, the financing available to them, and the resulting difference a TIF agreement would make, making the case that TIF would determine the projects viability. This means the developer has shown an anticipated return on investment that is convincing enough for them to move forward with the project if TIF is

⁶ If the project had not been issued credits the benefit of the doubt for this factor was given to the program in potentially tipping the project.

⁷ Neb. Rev. Stat. § 18-2113.

approved. If the NHTC is not included in the TIF financing plans—plans presented in applications for public financing and claimed to be necessary for a project to move forward—we categorized the project as independently viable.

This method is best at detecting independently viable projects in the early years of the program. When the program started accepting applications in 2015, projects that had already secured financing could also now qualify for tax credits. Tax credits would make the projects more expansive or profitable, but they were not necessary for it to move forward. TIF applications allowed us to be able to see some of those cases. However, future projects in similar situations may forego attempting to secure some amount of outside financing and use the tax incentive instead. Meaning, where a prior project could have taken out a loan and moved forward absent the credit, they may now choose the credit and forego the loan. This methodology will therefore likely detect fewer potentially independently viable projects in the future.

Applying Our But-for Determinations

Throughout Section II, we applied our but-for determinations to metrics as appropriate. Any time that we did so, we showed the results for all participants of the program (100% but-for) as well as for the 54 projects we determined were more likely to have needed the credit to be viable. This was to allow readers to see results *associated* with the program compared to what we estimate is more likely to have been *caused* by the program. We do not claim that the credit caused the 54 projects to happen—because it is very difficult to prove that the incentive was the single factor that caused the project to take place. We only state that it was not ruled out using our methodology.

Auditor’s Note

In its written response to the draft audit report, History Nebraska indicated some concerns regarding our but-for methodologies. That response is included, in full, in this final report. The Auditor’s Summary to the Agency Response—which is also included in this report—contains our comments on those concerns.

Metric 1: Jobs

How many local jobs did businesses occupying renovated properties create during the time period?

Results

Thirty businesses at the 68 project locations added 81 direct jobs from prior to renovation to the end of 2019. Existing economic modeling suggests that 2,756 job-years in Nebraska were associated with NHTC projects.

The results for the 54 projects we believe were more likely to have needed the credit for viability suggest the program may have been a factor in up to 63 of the 81 direct jobs, and that approximately 1,191 job years is a more likely figure than the 2,756.

Directly Observed Jobs

Measuring job creation for the Nebraska Historic Tax Credit (NHTC) was different from measuring it for previous incentive programs we have audited. In previous audits, we measured the number of jobs created by the entities that received the tax credit. However, in the Historic Tax Credit program, jobs are not created by the parties receiving the restoration credit, they are created by the businesses located in the restored property. (Jobs associated with the restoration work as well as secondary and induced employment are discussed in the Economic Modeling Estimates below.)

As discussed in the methodology section for this metric, it was not possible to identify employment for all tenant businesses in properties restored through the program. We identified 36 businesses that reported employment at project locations for some part of the period from two years prior to renovation to the end of 2019. Of those 36, six tenant businesses were at project locations prior to renovation, but were no longer there afterwards. This means that 30 businesses had employment at project locations after renovations.

We examined the employment history of these businesses to find out how many employees they had two years prior to renovation and at the end of our examination period. Jobs data was provided by the Department of Labor by calendar-year quarter. The three months of data were averaged, which means many results had a decimal point. For ease of readability, and because the precision represented by the amounts that are less than one job, we rounded all jobs numbers to the nearest whole number. Some of the following analyses will not exactly sum to the total provided due to this rounding.

For the 30 tenant businesses with post-renovation employment, from two years prior to renovation to the 4th quarter of 2019, 24 businesses had more employees (+141), and 7

had fewer employees (-59), with a net result of an increase of 81 employees, as shown in Figure 2.2.

Figure 2.2. After historic preservation projects, tenant businesses had a total average quarterly employment increase of 81 jobs.

Number of Businesses	Average Quarterly Employment		
	Two Years Prior to NHTC Project	End of 2019	Difference
30	807	888	81

Source: Audit Office analysis using NHTC and Nebraska Department of Labor data.

Direct Jobs by Economic Development Region

Omaha had the highest number of historic preservation projects with tenant businesses after renovation. They also had the highest increase in employment in our examination period. However, to discuss jobs by geography and protect employer confidentiality, it was necessary to aggregate projects into regions rather than communities.

We used economic development regions as developed by the Nebraska Department of Economic Development.⁸ Of the total 81-job increase, the Southeast Economic Development Region was the area that had the highest increase with 31 of the added jobs, as shown in Figure 2.3. The combined Grand Island Metropolitan Statistical Area/Central region saw the next highest job increases at 24. The combined Lincoln/Omaha regions ended up with the lowest increase in the examination period with 7 more jobs after renovation. Although Omaha was the city with the highest job increase, as mentioned above, job performance in Lincoln brought the combined total down.

Figure 2.3. The Southeast Economic Development Region had the largest net increase in employment at project locations.

Economic Development Region	Number of Businesses	Average Quarterly Employment		
		2 Years Prior to NHTC Project	End of 2019	Difference
Southeast	3	90	121	31
Grand Island MSA-Central	4	330	354	24
Northeast	6	62	82	20
Lincoln MSA-Omaha Consortium	17	325	331	7*
Total	30	807	888	81

Source: Audit Office analysis using NHTC and Nebraska Department of Labor information

*Rounding error due to averaged quarterly employees.

Direct Job results, as broken down by urban/rural and distressed/non-distressed distinctions, can be found in the Rural Areas and Distressed Areas metrics on pages 41 and 44.

⁸ For further detail on Economic Development Region categorization, see the map on page 29.

But-for Split

In the 14 projects we categorized as independently viable, six had tenant businesses with employment after renovation. Within those six projects, we found 16 tenant businesses with an increase of 19 jobs. In comparison, as shown in Figure 2.4, the 54 projects which the program may have induced renovations housed businesses that gained up to 63 jobs from two years before the renovation to the end of 2019.

Figure 2.4. Employment at tenant business increased by 81 jobs.

Project Categories	Number of Businesses	Average Quarterly Employment		
		2 Years Prior	End 2019	Difference
Likely Independently Viable	16	232	251	19
Potentially Caused by Program	14	575	637	63*
Total	30	807	888	81

Source: Audit Office analysis using NHTC and NDOL information.

*Rounding error due to averaged quarterly employees.

Tenant Business Information Not Always Available

We identified as many businesses as possible that resided at renovated project addresses. However, there may have been employers that were missed. Participants are not required to report on who their tenants are. Additionally, some companies report employment numbers to the Department of Labor using addresses that are not the same as the worksite address. For example, one company in an Omaha project has multiple locations in the city but reported all its employment as a single number.⁹

Economic Modeling Estimates

There is more than one way to measure a program's jobs impact. As discussed, we found direct impacts in the form of employment at renovated properties. Another method using economic modeling to estimate broader economic impacts was performed by the University of Nebraska's Bureau of Business Research.

The Bureau of Business Research (BBR) used an economic modeling program designed specifically for historic preservation projects called the Preservation Economic Impact Model (PEIM) to generate its estimates of the impacts of the NHTC.¹⁰ This model takes project costs, broken down by expense categories like materials, architectural and engineering services, and construction work and estimates the effects of those purchases on the broader economy.

⁹ For our report, we took the total number of this company's employees and divided it by the number of locations.

¹⁰ Nebraska Job Creation and Economic Revitalization Act: Economic Impact and Creation of Residential and Commercial Space in 2019

As noted earlier, research suggests, and experts generally agree, that not all expenditures associated with tax incentive programs were caused by the program. Consequently, some of the renovation program activity would have happened anyway. As with most economic impact studies looking at tax incentives, the BBR Report does not incorporate but-for adjustments it into the results.

Of the total project costs used in the BBR economic impact statement, the Office’s but-for determination results show that about 56.8% of the modeled expenditures would likely have happened anyway, and that the program potentially caused up to 43.2% of project spending.

We can apply these percentages to the results of the BBR Report to estimate the amount of the impact they found that could be from the 54 projects we believe were more likely to have needed the historic preservation credit, shown in Figure 2.5. The model estimated that through 2019, the Act generated 2,756 job-years. A job-year is the model’s equivalent to one 40-hour a week job that lasts for 52 weeks. The results include job-years directly associated with project spending and construction, indirect job-years associated with suppliers of project materials, as well as jobs-years induced by new employee spending. When we apply our estimated but-for adjustment percentages, we see that a more likely total result would be approximately 1,191 job-years.

Figure 2.5. BBR modeling estimates 2,756 jobs caused by the program, while the Audit Office estimate of jobs potentially created is closer to 1,191.

Model Output	100% But-for	Likely Independently Viable (56.8%)	Potentially Caused by Program (43.2%)
Direct Employment	1,735	985	750
Indirect and Induced Employment	1,021	580	441
Total Employment	2,756	1,565	1,191

Source: Audit Office calculations using NHTC and UNL BBR information.

Methodology/Discussion

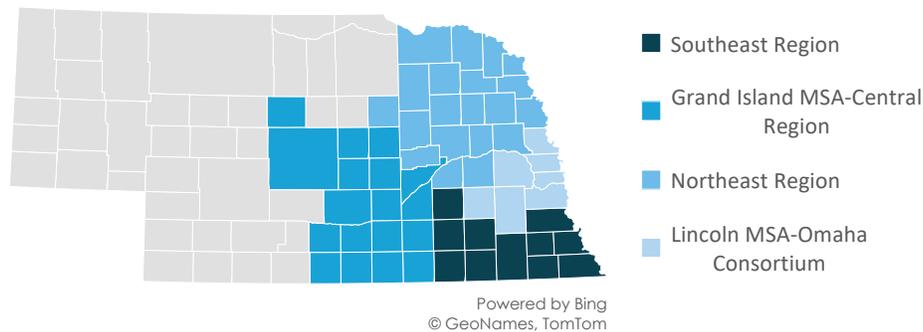
Directly Observed Jobs

Project locations were identified using the historic preservation credit web application. All addresses of project locations were searched for in the Department of Labor’s Unemployment Insurance database and the Department of Revenue’s Business Master File.

Employment information came from the Department of Labor’s Unemployment Insurance Database. Businesses associated with addresses that had more than one project are only counted once. Point-in-time comparisons were used to calculate employment change. Job numbers represent average quarterly employment for the quarter examined. The reported results represent the comparison of two years prior to construction and the 4th quarter of 2019. If the 4th quarter of 2019 was before the two-year post-renovation

window expired, that quarter’s employment was used. For addresses that had more than one project, the first project’s dates were used. Each company was also assigned a But-for Status, determined by the but-for status of the renovated property with which it is associated. Economic development regions are from the Department of Economic Development, shown in Figure 2.6.

Figure 2.6. Economic Development Regions



Source: Audit Office compilation based on Department of Economic Development categorization.

Modeled Jobs

The BBR Report included all projects that had submitted a Part 4 by the end of 2019. This is a smaller group than our study group, which is all that submitted a Part 3 by the same date. To determine the but-for rate more accurately for the population used in the BBR Report, we needed to find the but-for rate for the projects in its population.

Of the 49 projects we identified with Part 4 applications submitted by end of 2019, 14 were independently viable and 35 could have been induced by the program. Those projects spent a total of \$219.5 million according to the best information available.¹¹

Using our project costs and but-for determinations, we found the total project costs for the projects determined to be independently viable and those that could possibly be attributed to the program. We then determined the percentage of total project costs represented by independently viable projects and projects potentially caused by the program. The PEIM model treats each specific expenditure category slightly differently. For example, expenditures on concrete have a different effect on the overall economy than does electrical work. Each project will have a different amount of their total investment dedicated toward these specific expenses. Therefore, our results shown in Figure 2.7 are estimates based on the total expenditures.

¹¹ This differs from BBR’s number. They used eligible expenditures as listed on Part 4 applications. Our project expenditures are total expenditures as finally audited by Revenue as well as federally reported expenditures, which may be different than those reported to Revenue. If the numbers differed, we used the larger one.

Figure 2.7. Project Costs of Part 4 Projects through 2019

But-For Determination	Project Costs (in millions)	Percent of Total Project Costs
Likely Independently Viable	\$124.7	56.8%
Potentially Caused by Program	\$94.9	43.2%
Total	\$219.5	100%

Source: Audit Office analysis using NHTC and federal HTC information.

Discussion of how we reached our but-for estimates can be found on page 19.

Metric 2: Wages

Were the average wages at businesses occupying properties receiving credit higher or lower than the average wages of all Nebraska jobs in the same industries?

Results

For the fourth quarter of 2019, the 30 businesses in project locations after renovation had a combined average yearly wage of \$45,077, which was \$5,259 less than the average yearly wage for the state.

Additionally, economic modeling produced for History Nebraska suggests that up to \$93 million in direct, secondary, and induced wages were associated with the program. The Audit Office estimates that \$40.2 million is a more likely amount, based on only the projects we believe may have been dependent on the program for financing.

Directly Observed Wages

As discussed in the Jobs metric, we were able to identify 30 businesses that were in project locations after completed renovations. The average wages of the employees in those businesses was \$45,077 at the end of 2019. The statewide average wage for the same time was \$50,336 (Figure 2.8).

Figure 2.8. Average wages at tenant businesses were lower than the statewide average.

Tenant Businesses	Tenant Business Average Wages	Statewide Average Wage	Difference
30	\$45,077	\$50,336	- \$5,259

Source: Audit Office analysis of Nebraska Department of Labor information.

Wages by Industry Sector

We further examined wages by comparing directly observed employee wages with their statewide industry sector as assigned by the Department of Labor using NAICS codes.¹² Although tenant businesses’ total average wages were lower than the statewide average, most were higher than their statewide industry sectors. Sector 54 (Professional, Scientific, and Technical Services) had the highest average wages. However, they were \$8,305 below the state average for the sector. Sector 72 (Accommodation and Food Services) had the lowest average wages at \$24,329, but they compared favorably against their state industry

¹² The North American Industry Classification System (NAICS) is the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

average. These workers had wages that were \$6,961 higher per year than the rest of the sector in Nebraska. The full breakdown by industry code is shown in Figure 2.9.

Figure 2.9. Most tenant business sectors had higher average wages than their statewide industry sectors.

NAICS Code	Tenant Businesses		State Average Year Wage	Yearly Wage Difference
	Number	Average Yearly Wage		
51,52,53	5	\$56,004	\$46,347	\$9,657
72	7	\$24,329	\$17,368	\$6,961
44-45,71,81	3	\$33,510	\$29,845	\$3,665
56,61,62	5	\$41,482	\$39,294	\$2,188
92	4	\$45,590	\$44,408	\$1,182
54	6	\$72,451	\$80,756	- \$8,305

Source: Audit Office analysis of Nebraska Department of Labor information.

NAICS Codes

- 44-45: Retail Trade
- 51: Information
- 52: Finance and Insurance
- 53: Real Estate Rental and Leasing
- 54: Professional, Scientific, and Technical Services
- 56: Administrative and Support and Waste Management and Remediation Services
- 61: Educational Services
- 62: Health Care and Social Assistance
- 71: Arts, Entertainment, and Recreation
- 72: Accommodation and Food Services
- 81: Other Services (except Public Administration)
- 92: Public Administration

Wages by Economic Development Region

When we broke down the averages by geography, we got mixed results. The city of Pender had the highest average wages for the projects we reviewed. As with the Jobs Metric discussion, in order to report wages by geography and protect employer confidentiality, it was necessary to aggregate projects into regions. Figure 2.10 shows jobs in project locations in the Northeast Economic Development region saw the highest average wages at \$55,640, which is more than \$10,000 higher than wages in that region. However, the combined Omaha Consortium and Lincoln Metropolitan Statistical Area region companies saw average wages of \$44,453, which was just shy of \$9,000 below average wages for that combined region.

Figure 2.10. The Northeast region had the highest average wages for tenant business in renovated locations.

Economic Development Region	Number of Businesses	Total Wages End 2019	Average Wages
Southeast	3	\$1,046,812	\$34,605
Grand Island MSA-Central	4	\$4,142,131	\$46,804
Northeast	6	\$1,135,984	\$55,640
Lincoln MSA-Omaha Consortium	17	\$3,682,274	\$44,453
Total	30	\$10,007,201	\$45,077

Source: Audit Office analysis of Nebraska Department of Labor information.

Wages by But-for Determination

Companies that moved into properties of projects determined to be independently viable saw similar average wages to those that might be attributable to the program. They averaged \$47,569 and \$44,097 respectively, as shown in Figure 2.11.

Figure 2.11. There's a slight difference between tenant business average wages between independently viable and potentially caused projects.

But-for Determination	Number of Businesses	Total Wages End 2019	Average Quarterly Wage	Average Yearly Wage
Likely Independently Viable	16	\$2,981,067	\$11,892	\$47,569
Potentially Caused by Program	14	\$7,026,134	\$11,024	\$44,097
Total	30	\$10,007,201	\$11,269	\$45,077

Source: Audit Office analysis of Nebraska Department of Labor information.

Modeled Wages

The Bureau of Business Research (BBR) analysis of the NHTC using the Preservation Economic Impact Model (PEIM) also generated wage impacts. The model estimated that through 2019, the Act generated an estimated \$93 million in wages, shown in Figure 2.12. The results include wages directly associated with project spending and construction jobs, indirect wages associated with jobs at suppliers of project materials, as well as wages induced by jobs generated by new employee spending. When we apply our estimated but-for adjustment percentages, we see that a more likely total result would be approximately \$40.2 million total wages. For further discussion of our but-for determination methodology, see page 19.

Figure 2.12. BBR modeling estimates \$93 million in wages caused by the program, while the Audit Office estimate is closer to \$40 million.

Model Output	BBR Estimates		Audit Office Adjustments	
	100% But-for	Likely Independently Viable (56.8%)	Potentially Caused by Program (43.2%)	
Direct Wages	\$69,540,600	\$39,493,707	\$30,046,924	
Indirect and Induced Wages	\$23,429,600	\$13,306,209	\$10,123,402	
Total Wages	\$92,970,200	\$52,799,916	\$40,170,326	

Source: Audit Office analysis UNL BBR information.

Methodology

Directly Observed Wages

Project locations were identified using the NHTC web application. All addresses of project locations were searched for in the Department of Labor's Unemployment Insurance database and the Department of Revenue's Business Master File.

Employment and wage information came from the Department of Labor's Unemployment Insurance Database. Businesses associated with addresses that had more than one project are only counted once. Wage numbers represent total wages at the companies at the end of 2019, divided by their average quarterly employment. Nebraska's average wages, and average wages for the various state industries were found using the Bureau of Labor Statistics data for 4th quarter of 2019.

Each company was also assigned a But-for Status, determined by the But-for Status of the renovated property it is associated with.

We report wages and employment geographically by using economic development regions as determined by the Department of Economic Development.

Companies in project locations after renovations were aggregated into 2-digit NAICS Industry Sectors. Some sectors were combined to protect confidentiality.

Modeled Wages

Our but-for methodology was used to find which projects may have been induced by the program. Project costs were summed for each but-for division and the percentages were used to estimate the percentage reduction of BBRs modeled results.

Metric 3: Investment

How much new investment was generated through the Act?

Results

By the end of 2019, the 68 projects we reviewed invested \$233 million in the state.

The results for the 54 projects we believe were more likely to have needed the credit for viability suggest the program may have caused up to \$108 million of the total investment by program projects.

As shown in Figure 2.13, over \$85 million in renovation projects was placed in service in 2015, the first year of the program. The next highest year was 2017 with nearly \$83 million.

More than half of the investment came from projects that the Audit Office determined to likely be independently viable. This includes the four largest projects, which alone account for more than \$97 million in investment. We estimate that the program could have been necessary up to \$108 million in investment. Full discussion of our methodology for determining independent viability can be found on page 19.

Figure 2.13. Projects completed in 2015 and 2017 had the highest levels of investment, with over \$80 million each.

Completion Year	Likely Independently Viable	Potentially Caused by the Program	Total
2015	\$65,393,780	\$20,131,410	\$85,525,190
2016	\$10,104,969	\$26,048,453	\$36,153,422
2017	\$44,848,366	\$38,102,496	\$82,950,862
2018	\$4,325,705	\$16,913,291	\$21,238,996
2019	-	\$6,870,286	\$6,870,286
Total	\$124,672,820	\$108,065,937	\$232,738,757

Source: Audit Office analysis using NHTC and federal HTC data.

More detailed investment information, broken down by urban/rural and distressed/non-distressed categories, can be found in discussions of Metrics 6 and 7 on pages 41 and 44, respectively.

Methodology

Investment information came from three sources. The first was from project applications. The second was from Department of Revenue's audits, which include credit earning and non-credit earning expenditures. The third was from Federal Tax Credit reports. Because many projects reported different numbers to different agencies, for our purposes, the highest number that was provided to any given agency is used in our report. This is for two reasons. One is that it gives developers and the program the benefit of the doubt for the investment made in preservation projects that may have been tipped by the program. The other is that some projects only reported amounts they would likely get credit for to the state. Some Part 3 applications, which require detailed reporting on qualified and non-qualified expenditures, did not include their total non-qualified expenditures. For example, a project that includes renovating a historic building and adding a new expansion may be a \$20,000,000 total project, but the Part 3 only reflects expenditures on the historic renovation portion. In this case, the project as a whole, \$20 million, would be included in our reported investment. Another example would be a project that is only historic preservation, but the applicant knows that they will reach the individual project cap. In this case they may only report enough to reach that cap on their Part 3 application.

Metric 4: New to Nebraska

How many local businesses occupying renovated properties were new to the state?

Results

Of the 30 tenant businesses we identified, five of them were new to the state. Nineteen businesses occupied program properties before and after renovation, and six moved from local areas into program properties after renovation.

Using Department of Labor and Department of Revenue data, we were able to identify businesses that were new to Nebraska, businesses that moved or expanded from another local address, and those that stayed in the same location before and after renovation, shown in Figure 2.14.

Figure 2.14. Five NHTC businesses were new to Nebraska.

Location Status	Businesses	Employment Increase
New to Nebraska	5	8
Local Relocation	6	43
Continuous	19	30
Total	30	81

Source: Audit Office analysis of Nebraska Department of Labor information.

Of the five businesses that were new to the state, three were in sector 54 (Professional, Scientific, and Technical Services) and the others were in Sectors 61 (Educational Services) and 72 (Accommodation and Food Services). Four new businesses were in distressed areas and four were in urban areas (see Metrics 6 and 7 for definitions of distressed areas and urban areas). All five combined for a total of eight jobs at the end of 2019.

Six businesses relocated from other addresses within the state. All these businesses ended up in Omaha. Five moved from one Omaha address to another and one relocated from another city. These businesses combined to increase their average quarterly employment by 43 workers.

The remaining 19 businesses were located at the same address before and after the renovation. Their total average quarterly employment increased by 30 workers.

Methodology

The statutory definition of a business that is new to Nebraska, for the purposes of tax incentive evaluations, is the following:

50-1209(4)(f) New business means a person or unitary group participating in a tax incentive program that did not pay income taxes or wages in the state more than two years prior to submitting an application under the tax incentive program. For any tax incentive program without an application process, new business means a person or unitary group participating in the program that did not pay income taxes or wages in the state more than two years prior to the first day of the first tax year for which a tax benefit was earned.

This definition works best when the business itself is the entity receiving the tax credit. For the NHTC, the owner of the property earns the credit and the businesses they rent space to are not participants. Therefore, a modified version of the definition is necessary. For our purposes, a business was classified as new to Nebraska if they first hired employees or paid income taxes at a property that has previously been renovated using Nebraska Historic Tax Credits.

Each tenant business was assigned a location status. “Moved Out/Closed” are businesses that existed at a project location up to two years before the start of renovations but were no longer there when the project was placed in service. “Continuous” are businesses that were at project locations prior to construction start and remained after the project was placed in service. “Local Relocation” are businesses that were already in operation in the state before moving into project locations after the project was completed.

Metric 5: Cost of Compliance

What is the cost for businesses to comply with the Act?

Results

From 2015 through 2019, applicants paid \$325,838 in application fees. Additional costs of compliance for lawyers, accountants, and other expenditures are inherent in the syndication agreements used by many applicants to monetize credits.

Application Fees

In 2015, interest in the new program led to rapid allocation of credits and payment of application fees. A decrease in applications in 2016, combined with the rolling application dates, required an increase in the application fee to offset the uncertainty of distributing the credit allocations for any given year. NHTC application fees doubled starting January 1, 2017, from 0.4% to 0.8% for Part 2 applications, and from 0.1% to 0.2% for Part 3 applications. Any Part 2 or Part 3 application completed after January 1, 2017, is charged a fee at the higher rate, regardless of the completion date of an earlier application part. Part 4 fees are set in statute at a rate of 0.25% of allocated credits and directed to the Civic and Community Center Financing Fund.

Part 2 fees totaled \$247,139, distributed across projects, as shown in Figure 2.15. Of 104 Part 2 application fees paid, 72 (69%) paid an application fee equal to 0.4% of credits requested for a total of \$96,707. The remaining 33 (31%) paid a fee equal to 0.8% of credits requested for a total of \$150,433.

Part 3 fees totaled \$36,362. Of 68 Part 3 application fees paid, 24 (35.3%) paid an application fee equal to 0.1% of credits requested for a total of \$10,049. The remaining 44 (64.7%) paid an application fee equal to 0.2% of credits requested for a total of \$26,312.

By the end of 2019, Part 4 fees had been collected for 38 projects for a total of \$42,337 for the Civic and Community Center Financing Fund.

Figure 2.15. From 2015 to 2019, applicants paid \$325,838 in application fees.

Project Year	Part 2	Part 3	Part 4	Total Fees
2015	\$80,205	\$27,461	\$35,165	\$142,831
2016	\$37,533	\$6,385	\$7,010	\$50,928
2017	\$42,744	\$2,384	\$0	\$45,128
2018	\$50,071	\$132	\$162	\$50,365
2019	\$36,586	\$0	\$0	\$36,586
Total	\$247,139	\$36,362	\$42,337	\$325,838

Source: Audit Office analysis of NHTC data.

Syndication Agreements

In addition to application fees, many projects make use of syndication agreements to monetize their credits. As discussed in Section I, syndication agreements can be complicated arrangements that take up time and resources, as well as reducing the amount of the credit that can be used towards the project.

Methodology/Discussion

For this metric, the Audit Office reviewed NHTC applications data and reviewed other historic tax credit reports.

Metric 6: Rural Areas

To what extent are tax credits being utilized in connection with renovations in rural areas?

Results

Rural areas saw a higher net employment increase in tenant businesses, while urban areas saw a higher amount of investment and credit use.

Investment

For the 68 projects we reviewed, \$232.7 million in renovations were completed by the end of 2019. Of those, 59 projects (87%) were in urban areas and invested \$213.6 million, as shown in Figure 2.16. The remaining 9 projects were in rural areas and saw \$19.2 million in investment. Figures include total project costs, which includes costs that are eligible for credits as well as costs that are not.

Figure 2.16. Nine projects in rural locations saw \$19 million in investment.

Area	Number of Projects	Total Project Cost
Rural	9	\$19,169,881 (8.2%)
Ashland	1	\$1,536,493**
Chadron	1	\$132,000**
Fairbury	2	*
Friend	1	*
Loup City	1	*
Pender	2	*
Red Cloud	1	*
Urban	59	\$213,568,876 (91.8%)
Grand Island	1	*
Hastings	1	*
Lincoln	4	*
Norfolk	1	*
Omaha	52	\$199,664,239
Total	68	\$232,738,757 (100%)

Source: Audit Office analysis of NHTC and federal HTC data.

*Not reported to protect taxpayer confidentiality.

**Not confidential due to information source.

After applying our but-for analysis, we found that of the urban projects, 11 were independently viable, meaning they likely would have happened without the program, and 48 could have been induced the program, shown in Figure 2.17. Using the same analysis, three rural projects were independently viable and six could have been induced the program.

Figure 2.17. The Audit Office estimates the program potentially caused \$7.6 million in investment in rural areas.

Area	Projects	Investment
Rural	9	\$19,169,881
Likely Independently Viable	3	\$11,528,957
Potentially Caused by Program	6	\$7,640,924
Urban	59	\$213,568,876
Likely Independently Viable	11	\$113,143,863
Potentially Caused by Program	48	\$100,425,013
Total	68	\$232,738,757

Source: Audit Office analysis using NHTC and federal HTC data.

Credits

Of the projects that had submitted their expenditures to the Department of Revenue, 39 had credits certified and issued to the taxpayer by the end of 2019, as shown in Figure 2.18. These projects were issued \$16.9 million in credits. Of the total issued credits, over \$1.8 million (11%) were for 6 projects in rural areas. The 33 projects in urban areas received \$15.1 million (89%). More credit-earning projects (29) were in Omaha than in the rest of the state combined.

Figure 2.18. Projects in rural areas earned 11% of total credits.

Area	Credit-Earning Projects	Credits Issued
Rural	6	\$1,829,907 (11%)
Urban	33	\$15,104,649 (89%)
Total	39	\$16,934,556

Source: Audit Office analysis of NHTC data.

Directly Observed Jobs

As shown in Figure 2.19, seven of the 30 businesses with post-renovation employment were in rural areas. They all had employment increases in the examination period and saw a combined quarterly average of 44 new jobs. The remaining urban businesses had a net average quarterly increase of 37 jobs.

Figure 2.19. Rural tenant businesses saw a larger employment increase than urban tenant businesses.

Area	Number of Businesses	Average Quarterly Employment		
		2 Years Prior	End 2019	Difference
Rural	7	152	196	44
Urban	23	655	692	37
Total	30	807	888	81

Source: Audit Office analysis of Nebraska Department of Labor information.

Methodology/Discussion

For tax incentive evaluations, rural areas are defined in statute as “any village or city of the second class in this state or any county in this state with fewer than twenty-five thousand residents”. Project locations were identified using the NHTC web application and each project was assigned an urban or rural designation. Projects in Boys Town were included in Omaha totals in order to protect confidentiality in reported project and credit amounts.

Project credit amounts came from the Department of Revenue portion of the Webapp.

Investment amounts came from several sources, including Part 3 applications, Department of Revenue audits, and reports on the Federal HTC. The highest amount of investment reported in any of the three sources was used in our report.

Employment information came from the Department of Labor’s Unemployment Insurance Database. Point-in-time comparisons were used to calculate employment change. Job numbers represent average quarterly employment for the quarter examined. The reported results represent the comparison of two years prior to construction and the 4th quarter of 2019. If the 4th quarter of 2019 was before the two-year post-renovation window expired, that quarter’s employment was used.

Metric 7: Distressed Areas

To what extent are tax credits being utilized in connection with renovations in distressed areas?

Results

Distressed areas had more projects, investment, and credits than non-distressed areas. However, non-distressed areas saw higher direct employment increases.

Investment

Of the 68 projects in our evaluation group, 32 of them were in locations that fit our definition of distressed areas and invested \$183.8 million in renovations, as shown in Figure 2.20. Thirty-six projects invested \$48.9 million in non-distressed areas.

After applying our but-for analysis, we found that of the distressed area projects, nine were independently viable, meaning they likely would have happened without the program. Twenty-three could have been induced by the program. Using the same analysis, five projects in non-distressed areas were independently viable and 31 could have been induced by the program.

Figure 2.20. Distressed areas had more projects and investment than non-distressed areas.

Area	Projects	Total Project Cost
Distressed	32	\$183,826,607
Likely Independently Viable	9	\$110,230,806
Potentially Caused by Program	23	\$73,595,800
Non-distressed	36	\$48,912,150
Likely Independently Viable	5	\$14,442,013
Potentially Caused by Program	31	\$34,470,137
Total	68	\$232,738,757

Source: Audit Office analysis of Nebraska Department of Labor information.

Credits

Of the projects that had submitted their expenditures to the Department of Revenue, 39 had credits certified and issued to the taxpayer by the end of 2019, shown in Figure 2.21. Nearly \$17 million in credits were issued for those projects. Of the issued credits, just over \$13.3 million (79%) were for 24 projects in distressed areas. \$3.6 million (21%) was for 15 projects in non-distressed areas.

Figure 2.21. Distressed areas had more issued credits than non-distressed areas.

Area	Projects	Issued Credits
Distressed	24	\$13,326,353
Likely Independently Viable	8	\$5,153,416
Potentially Caused by Program	16	\$8,172,937
Non-distressed	15	\$3,608,203
Likely Independently Viable	5	\$1,036,020
Potentially Caused by Program	10	\$2,572,183
Total	39	\$16,934,556

Source: Audit Office analysis of Nebraska Department of Labor information.

Directly Observed Jobs

Fifteen of the 30 companies with post-renovation employment were in distressed areas. Eleven of those combined for an increase of 50 jobs. The remaining four decreased employment in the examination period by 43 jobs, with a net result of an increase of seven jobs in distressed areas. Non-distressed areas saw an increase of 75 jobs. Employment changes in total and by but-for division are shown in Figure 2.22.

Figure 2.22. Non-distressed areas saw higher direct employment increases.

Area	Number of Businesses	Average Quarterly Employment		
		2 Years Prior	End 2019	Difference
Distressed	15	309	315	7*
Likely Independently Viable	11	199	208	9
Potentially Caused by Program	4	110	108	-2
Non-distressed	15	498	573	75
Likely Independently Viable	5	33	43	10
Potentially Caused by Program	10	465	530	65
Total	30	807	888	81

Source: Audit Office analysis of Nebraska Department of Labor information.

*Rounding error due to averaged quarterly employees.

Wages by Distressed Area Determination

Average wages in distressed areas (\$44,922) were virtually the same as wages in non-distressed areas (\$45,163). Both were below the state average of \$50,336 for the 4th quarter of 2019.

Methodology

Distressed Areas are defined in statute as “an area of substantial unemployment as determined by the Department of Labor pursuant to the Nebraska Workforce Innovation and Opportunity Act.” If a project was located in a census tract that had been designated as an Area of Substantial Unemployment at any time during the life of the program, it was included as a project in a distressed area.

Project locations were identified using the NHTC web application and each project was assigned a distressed or non-distressed designation. Project credit amounts came from the Department of Revenue portion of the Webapp. Investment amounts came from several sources, including Part 3 applications, Department of Revenue audits, and reports on the Federal HTC. The highest amount of investment reported in any of the three sources was used in our report.

Employment information came from the Department of Labor’s Unemployment Insurance Database. Point-in-time comparisons were used to calculate employment change. Job numbers represent average quarterly employment for the quarter examined. Five quarters were examined for each business; two years prior to construction start, one year prior to construction start, one year after the project was placed in service, two years after the project was placed in service, and the 4th quarter of 2019. If the 4th quarter of 2019 was before the two-year post-renovation window expired, that quarter’s employment was used. The written results represent the comparison of two years prior to construction and the 4th quarter of 2019.

Metric 8: High-tech and Renewable Energy Firms

How many local businesses occupying renovated properties meet the definition a high-tech or a renewable energy firm?

Results

In 2019, three businesses at renovated projects were high-tech firms. Two businesses met the definition of renewable energy companies.

High-tech Firms

We were able to identify 30 businesses at the end of 2019 that were at project locations after renovation. Three of those were high-tech companies. They were in Sectors 5413 (Architectural, Engineering, and Related Services) and 5415 (Computer Systems Design and Related Services), shown in Figure 2.23. These companies combined for 7 jobs at the end of 2019, and all were new to the state.

Figure 2.23. High-tech tenant businesses added 7 jobs.

Type	Businesses	Average Quarterly Employment	
		2 Years Prior	End of 2019
High-tech Firms	3	0	7

Source: Audit Office analysis of Nebraska Department of Labor information.

Renewable Energy Firms

At the end of 2019, NHTC projects that completed renovation housed two renewable energy companies. There were not enough companies that met this definition to be able to meet disclosure requirements, so we are unable to report what sectors those companies were in or how many jobs they gained.

Methodology

Using information from the Department of Labor’s Unemployment Insurance database, we found the companies with NAICS codes that met the definition of a high-tech or renewable energy firm.

High-tech firms are defined in Section 50-1209 (d) as “a person or unitary group with any of the following four-digit code designations under the North American Industry Classification System as assigned by the Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112, 5173, 5179, 5182, 5191, 5413, 5415, or 5417”.

Renewable energy firms are defined in Section 50-1209(g) as “a person or unitary group that has a location with any of the following six-digit code designations under the North American Industry Classification System as assigned by the Department of Labor: 11110, 11120, 11130, 11140, 11150, 11160, 11191, 11199, 111211, 111219, 111310, 111320, 111331, 111332, 111333, 111334, 111335, 111336, 111339, 111411, 111419, 111930, 111991, 113310, 221111, 221114, 221115, 221116, 221117, 221118, 221330, 237130, 237210, 237990, 325193, 325199, 331512, 331513, 331523, 331524, 331529, 332111, 332112, 333414, 333415, 333511, 333611, 333612, 333613, 334519, 485510, 541330, 541360, 541370, 541620, 541690, 541713, 541714, 541715, 561730, or 562213”.

The definition of renewable energy firm was derived from the BLS Green Goods and Services Survey. This definition includes firms that not only produce energy from renewable sources, but also those that support renewable energy production firms. This includes businesses such as farms that produce biomass inputs, wind turbine and turbine generator manufacturing, and environmental consulting services.

Not all firms in these industries are producing outputs related to renewable energy production at all times. For example, this definition includes corn farming because corn has the potential to be used for renewable energy production. So the results found in this section should be considered as the *maximum potential* renewable energy impact.

Metric 9: Cost Per Job

How much tax benefit did companies receive for each new job local businesses created at properties receiving credit?

Results

Combining the Bureau of Business Research’s job creation results with the amount of credits issued suggests a cost per job-year of \$5,931. Our but-for analysis estimates that the cost per job-year is \$13,726.

Our credit analysis showed that more than \$16 million in credits were issued through 2019, the same time period as is covered by the Bureau of Business Research (BBR) Report discussed in detail on page 27. Figure 2.24 shows the BBR figures for estimated direct, indirect, and induced job-year increases. The 14 projects that we categorized as independently viable were responsible for more than half of the investment used in the modeling. The estimated result of removing those 14 projects from the BBR modeling is that the number of jobs likely to have been caused by the program goes down, also shown in Figure 2.24.

Figure 2.24. BBR modeling estimates 2,756 jobs caused by the program, while the Audit Office estimate of jobs potentially created is closer to 1,191.

BBR Job Estimates	BBR 100% But-for	Audit Office Estimate of Results Potentially Caused by Program
Direct Employment	1,735	750
Indirect and Induced Employment	1,021	441
Total Employment	2,756	1,191

Source: Audit Office analysis using NHTC and UNL BBR data.

The cost per job-year, based on estimated employment increase and the total revenue foregone by the program can be found using both estimates. If the BBR results are used in that calculation, the cost per job would be an estimated \$5,931, as seen in Figure 2.25. Adjusting the results to reflect only the projects we think could potentially have been caused by the program increases the estimated per-job year to \$13,726 per job-year. These results should be treated as underestimates of what the actual modeled cost per job would be. Ten projects that have investments included in the modeling did not have credits certified and issued by the end of 2019, so the total credit cost is likely higher than indicated.

Figure 2.25. The Audit Office estimate for the cost per job is 2.3 times more than using the original BBR jobs estimate.

Foregone Revenue (Actual)	BBR 100% But-for Cost per Job	Audit Office Estimate of Results Potentially Caused by Program Cost per Job
\$16,345,556	\$5,931	\$13,726

Source: Audit Office analysis using NHTC and UNL BBR data.

Methodology

We used total estimated employment as modeled by the Bureau of Business Research at the University of Nebraska–Lincoln, as well as credit costs and but-for adjustments to find a range of job-year increases that may be a plausible result of the program. Further discussion on but-for determinations can be found on page 19. Discussion of how we reached the percentages used in but-for analyses of modeled results are found on page 24.

Metric 10: Cost vs. Benefit

What is the Act's total cost vs. total benefit?

Results

The Act does not appear to have generated enough tax revenue to pay for itself. Available information suggests that for every dollar of credits issued, or foregone revenue, the Act generated \$0.25 in state taxes through 2019.

However, a full, independent, cost versus benefit analysis that includes but-for adjustments and long-term effects cannot be performed by the Audit Office without access to economic modeling software that can produce revenue generation estimates.

Several studies have used economic modeling to examine how much revenue may have been generated by their state's historic tax credit. These models estimate the economic impact of the direct spending associated with the program, secondary effects on the supply chain and other businesses associated with the project, and induced effects of on the economy of the estimated increased employment, wages, and associated spending.

Some of these reports used modeling to examine cost versus benefit, comparing the revenue foregone through historic preservation tax credit programs to the state and local tax revenue generated by renovation projects, and have shown mixed results. Examinations in Virginia showed positive revenue generation of up to \$5.35 for every \$1 of tax credits, and Louisiana showed \$3.22 for every dollar. Massachusetts showed a more modest \$1.20 in revenue generated for every \$1 foregone. Oklahoma and Kansas reviews showed net revenue losses with estimated revenue generation of \$0.20 and \$0.28, respectively, per dollar foregone.¹³

IMPLAN is the most popular modeling tool for historic preservation studies. Rutgers University's Center for Urban Policy Research created a modified IMPLAN model, specifically designed for historic preservation analysis, called the Preservation Economic Impact Model (PEIM). It has been used to create annual economic impact reports for the federal NHTC and several state-level reports, including annual reports for Nebraska.

In its 2020 report, the Bureau of Business Research of the University of Nebraska–Lincoln used PEIM to estimate economic impacts. They estimate that through 2019, the program generated \$4,271,900 in state taxes. In that same time, we report that \$16,934,556 in tax credits were issued to participants, shown in Figure 2.26. If these

¹³ Neither state's evaluation reported this number. However, it can be calculated with information that was reported. Oklahoma reported costs of \$47.7 million and State and Local tax generation of \$9.4 million. Kansas reported costs of \$53 million, and State and Local tax generation of \$14.8 million.

figures are taken together, the cost vs. benefit result would be an estimated net revenue loss, generating \$0.25 in new state revenue for every dollar foregone.

Figure 2.26. The \$8.5 million estimated revenue generated was less than the revenue foregone.

Type	BBR Estimated Revenue Generated	Foregone Revenue	Revenue Generated as a Percentage of Foregone Revenue
State	\$4,271,900	\$16,934,556	25.2%
Local	\$4,270,400		25.2%
Total	\$8,542,300		50.4%

Source: Audit Office analysis using UNL BBR information.

Economic impact reports of this nature do not necessarily measure the same things. Reports can differ based on what information is fed into the model and what assumptions are made. For example, the Virginia evaluation measured all tax credit activity, including federal only, state only, and state/federal combined projects. Others include state only and combined projects. Another variable that is not consistent between state reports is how many years of tax revenue after project completion is estimated. The Virginia evaluation estimated revenues 20 years into the future. The Nebraska report does not estimate revenue beyond 2019. Estimating revenue into the future would increase the revenue generation estimate.

In what may be the most common assumption, economic impact statements tend to assume that all activity associated with the program was caused by the program. This is the but-for question. As discussed at the beginning of this section, the big question for all tax incentives is “How much of the activity we are measuring would not have happened but-for the program?” The reports tend to acknowledge that some of the activity would have taken place without the credit, but they typically do not make adjustments for this in the modeling.¹⁴ This means that modeling results almost always include the assumption that all economic activity surrounding tax credit projects was caused by their program. The UNL Bureau of Business Research report does not discuss or make adjustments related to the but-for question.

With the methodology discussed at the beginning of the section, we found 14 projects that likely would have occurred without the credit. We used these but-for results to find a more likely figure for spending on the projects used in the PEIM model. This resulted in a 56.8% reduction of the total investment that would have been input into the model. A 56.8% reduction in resulting revenue estimates would have the following result, shown in Figure 2.27.

¹⁴ The notable exceptions here are the Massachusetts and Virginia reports. Of all the reports that were reviewed for this report, which includes reports on programs mentioned above and also for programs in Ohio, Alabama, Georgia, Colorado, Iowa, Indiana, Maryland, Maine, Minnesota, Missouri, Texas, and Arkansas, they were the only states that included a but-for adjustment in their modeling.

Figure 2.27. The Audit Office estimates the revenue generated by the program was 21.8% of foregone revenue.

Type	Estimated Revenue Generated	Foregone Revenue	Revenue Generated as a Percentage of Revenue Foregone
State	\$1,845,792	\$16,934,556	10.9%
Local	\$1,845,143		10.9%
Total	\$3,690,935		21.8%

Source: Audit Office analysis using UNL BBR information.

These are rough estimates based on academic research and our but-for analysis. In order for the Audit Office to produce an independent cost vs. benefit analysis for the program in Nebraska which could include but-for adjustments and alternate timelines, we would need access to modeling software with the capability to estimate revenue generation.

Methodology

Review of historic tax credit reports, combined with information from the NHTC Webapp. Discussion of how we reached our but-for estimates can be found on page 19.

Metric 11: Federal Credits

How much federal credit did the Act bring to Nebraska?

Results

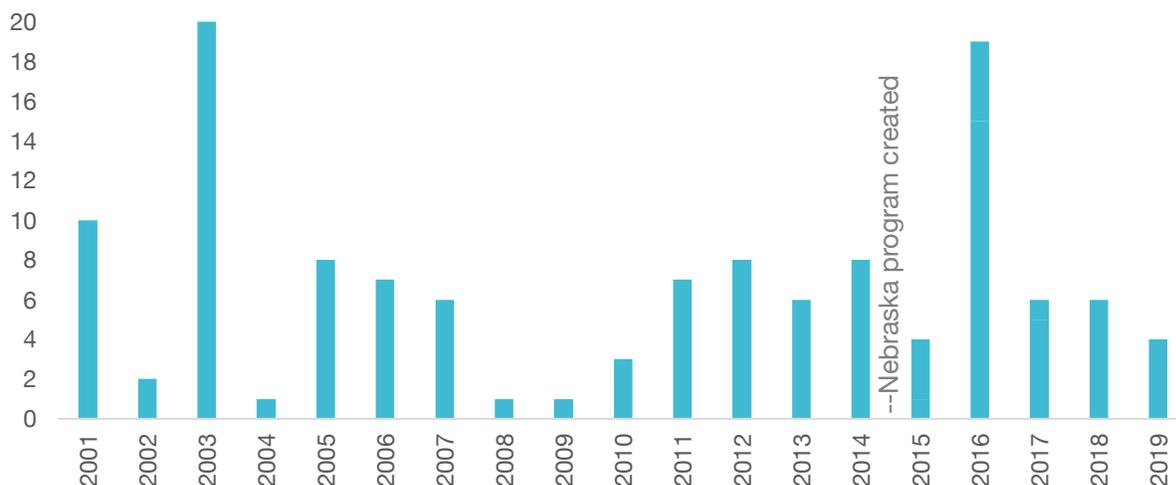
Through 2019, 31 projects that received Nebraska Historic Tax Credits also received \$32.9 million in Federal Historic Tax Credits. The data do not show an increase in federal projects after the program was created. We determined that up to \$11.5 million of federal credits from 22 of these 31 projects could have been induced by the state program. The remaining projects were likely to have occurred without the state program and could not be credited with attracting federal projects.

Proponents of LB 191 believed the state credit would help attract federal credits to Nebraska. We were able to examine this claim by looking the pattern of federal credit use over time, how it interacted with the state credit, and using our but-for methodology.

Projects

As shown in Figure 2.28, Nebraska has seen two waves of increases in federal projects since 2001. The first wave peaked in 2003 with 20 projects that had post-renovation (Part 3) applications approved. The second wave peaked in 2016 with 19 Part 3 approvals.

Figure 2.28. The number of completed federal projects has fluctuated over time, unrelated to the NHTC.



Source: Audit Office compilation of NHTC and federal HTC information.

Between 2015, when the state program began receiving applications, and 2019, 31 projects had both state and Federal Part 3 approvals. Figure 2.28 shows that the 2016 peak in federal credits occurred the year after the state program began accepting

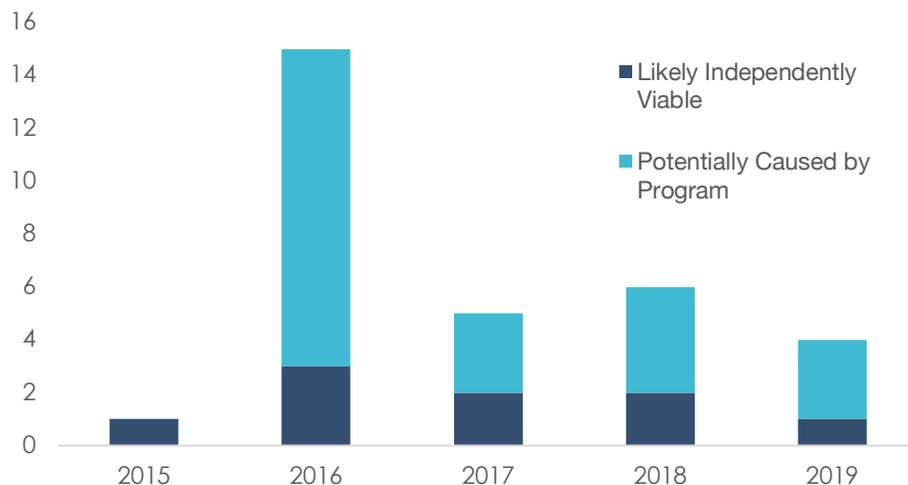
applications. While the state program may have played a role in the 2016 increase in federal projects, other factors may also have played a role.

To begin with, federal projects were generally increasing in the years leading up to 2016 and the upward trend may have continued. Additionally, some federal projects appear to have been ready to apply for credits but held off until the state program began. Eleven of the 2016 projects with Part 3 approvals applied to the state program on its first day and indicated that the project began construction that day, or earlier. For projects to be construction-ready when they apply suggests they had sufficient funding but waited to start the project until they could apply for state funding as well. In the absence of the state program, some of those applications may have been submitted in 2015 and the 2016 peak would have been lower.

To be able to say that the state credit “attracted” federal credits, we must not only analyze which projects participated in both programs and how much federal credit they received, but also whether the state credit was determinative in making the project viable—if not, the federal credits would likely have been generated regardless of the state program.

When we apply our but-for tests to the projects that received both credits, we found that nine of the 31 were likely independently viable without the state program, shown in Figure 2.29.

Figure 2.29. Several projects with both state and federal credits were likely independently viable in every year since the start of the program.



Source: Audit Office compilation of NHTC and federal HTC information.

Credits

The federal program is not capped in the way the state program is and a single federal project can bring several million dollars to the state. A total estimated amount of \$107 million in federal credits was generated in Nebraska from 2001 to 2019.

For projects that had Part 3 approvals in both programs through 2019, \$32.9 million in federal credits was generated. When we applied our but-for tests, we found it plausible that up to \$11.5 million could have been attracted to the state by the program, shown in Figure 2.30. Around \$21.4 million was generated by projects that were likely independently viable without the state program. The four projects that received the most federal credit were found to be likely independently viable using our methodology. Those four projects alone generated more than \$17 million, over half of total federal credits earned by state projects since the NHTC started.

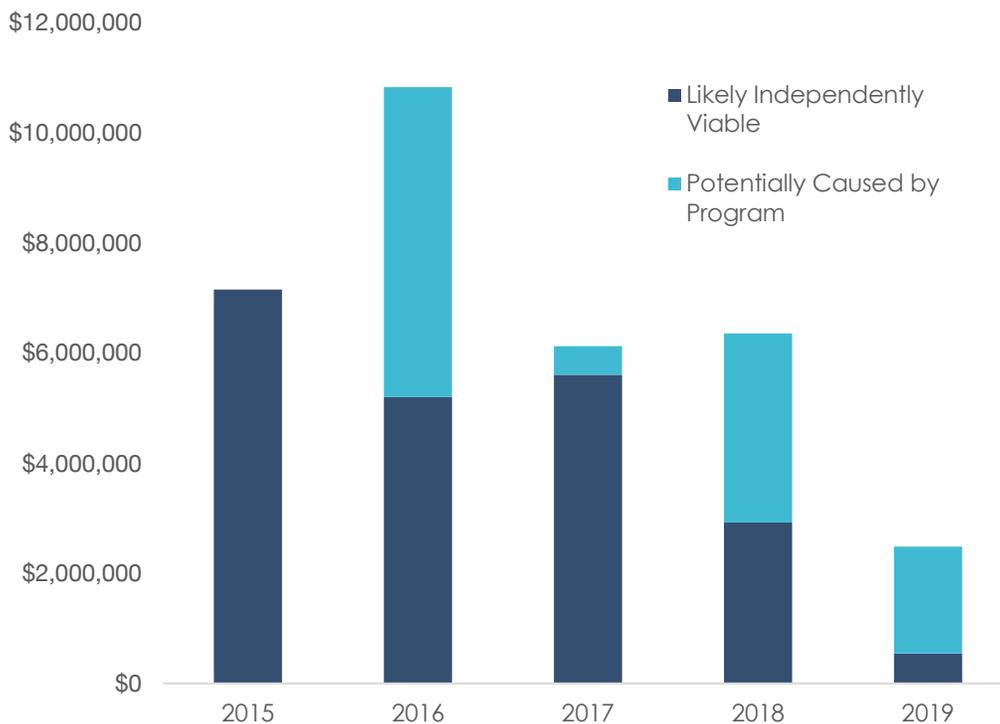
Figure 2.30. Likely independently viable projects generated more federal credit than those potentially caused by the state program.

But-for Determination	Estimated Federal Credit
Likely Independently Viable	\$21,410,212 (65.0%)
Potentially Caused by Program	\$11,520,257 (35.0%)
Total	\$32,930,469

Source: Audit Office compilation of federal HTC information.

Figure 2.31 shows the yearly amount of federal credits that were generated by projects using both state and federal tax credit programs. It also shows how much credit in those years were generated by projects that we classified as likely independently viable and those that were potentially caused by the program.

Figure 2.31. In most years after the start of the program, more federal credits were generated by projects that were likely independently viable.



Source: Audit Office analysis of federal HTC information.

Methodology/Discussion

A report from the National Trust for Historic Preservation and the Historic Tax Credit Coalition on projects receiving federal credit in Nebraska through 2019 was converted into a spreadsheet. The report included the amount of qualified expenditures for each project. The qualified expenditure amount was multiplied by 20% to find an estimated federal credit amount. A list of projects that only received state credits was added to the spreadsheet. The federal project list provided Federal Part 3 approval years. For projects that had different years for their state and federal Part 3 approvals, the project was assigned the earlier of the two for our analysis. The harmonized Part 3 data was then cross-referenced with our but-for determinations.

Metric 12: Cost of Administration

What is the cost to administer the Act?

Results

For the first two years of the program, the combined cost of administration for the Act are estimated to have been over \$100,000 per year, which dropped in following years. History Nebraska’s administrative costs are paid for with application fees. The cost for Revenue Department review and distribution of credits, paid for with general funds, has dropped from an estimated high of \$64,432 in 2016 to \$16,435 in 2019.

Other than salaries and wages, the highest costs were for setting up the web application, used by both History Nebraska and the Department of Revenue (Revenue) for administering the program, and for economic impact statements contracted by History Nebraska. These costs are shown in Figure 2.32.

Figure 2.32. Yearly administration costs grew during program development and generally decreased after 2016.

Agency	2014	2015	2016	2017	2018	2019
History Nebraska	-	\$78,161	\$64,994	\$57,491	\$49,615	\$58,496
Revenue (estimated)	\$5,743	\$34,230	\$64,432	\$40,927	\$17,338	\$16,435
Total Cost (estimated)	\$5,743	\$112,390	\$129,426	\$98,419	\$66,953	\$74,930

Source: Audit Office analysis of data provided by History Nebraska and the Department of Revenue.

History Nebraska’s costs were highest in 2015. General Funds appropriated by LB 191A were used as program startup funds for the first two fiscal years, FY2015 and FY2016.¹⁵ Fees generated from Part 2 and Part 3 applications are used to fund ongoing operations. After the initial startup phase, their highest costs come from salaries and wages and annual economic impact statements contracted through the University of Nebraska–Lincoln.

Costs to Revenue are not covered by fees and come entirely from General Fund appropriations. Their costs, almost entirely in the form of salaries and wages, were highest in 2016, and have reduced in the years since. There is a minimal ongoing cost for maintaining their portion of the administrative web application. Revenue’s costs are tied to auditing and examining credit eligibility of project costs, determining final credit issuance, tracking credit distributions, and processing credit use. Their costs are determined by the number of projects that are completed and submit Part 4 applications.

¹⁵ Nebraska state fiscal years run from July to June, so FY2015 refers to July 1, 2014 to June 30, 2015.

Methodology/Discussion

History Nebraska provided costs in two formats. For 2015, they provided a Ledger Detail budget report. For ongoing years, spending in specified categories was provided in a letter.

The Department of Revenue provided hours and job classifications of employees who dedicated time to the program. The Audit Office estimated the costs of those hours by examining the department's Biannual Budget Request for 2019-2021. Actual costs of relevant employee classifications in 2017 were averaged. The hours provided to us were used to determine the percentage of time in a year that those employees worked on NHTC administration. 2017 average salaries for each employee classification were divided by the percentage of time in each year the employee dedicated to the tax credit.

Metric 13: Fiscal Protections

Are adequate protections in place to ensure the fiscal impact of the Act does not increase substantially beyond the state's expectations in future years?

Results

Comparing the Nebraska Historic Tax Credit to recommendations developed by The Pew Charitable Trusts, the design of the program contains some fiscal protections. However, publicly available information on costs is limited and there is no cost forecasting for this program.

The fiscal note attached to the initiating legislation estimated a program cost of \$4.8 million per year.¹⁶ An amendment to the Act capped allocations at \$15 million annually. Through 2019, \$16.9 million in credits have been issued for use by participants.

To date, the year with the highest amount of credit issued was 2017, with over \$8 million. Other than 2016, when credits were first issued, 2018 saw the lowest foregone revenue amount at \$3 million. Although expenditures exceeded the fiscal note's expectations in two years, they have not come close to the annual allocation cap set by the Legislature.

However, the Act also contains a provision which allows unused allocations to carry over into future years. There is no limit on the amount that can carry over or how long it remains available. As of Feb 22, 2021, \$44,265,434 was available for allocation at any time. Though it is unlikely that a single year will see an allocation request close to this amount, it is possible that allocations resulting in credit use over \$15 million in a year could occur. Amendments to the program's project credit limit and participation requirements could also push credit use higher.

Pew Recommendations

The Pew Charitable Trusts report, *Reducing Budget Risks*, outlines nine strategies for keeping tax incentives manageable from a budget perspective. We compared the NHTC to their recommendations. The recommendations are shown in Figure 2.33 with Audit Office comments relating to the NHTC. For clarification, we expanded the discussion for some of the most relevant recommendations.

Regularly Forecast the Cost

There is no cost forecasting for this program. Reporting on the number of new and ongoing projects, as well as their status and estimated credit amounts, would allow the Legislature some understanding of future foregone revenue.

¹⁶ Fiscal Note, Revision:4, LB 191 (2014).

Monitor Costs and Commitments of Large and High-risk Programs

The Act does not require an annual report. The program does not appear in the Department of Revenue's annual Tax Incentive report. The only government agency reporting on the program is a topline credit use figure in the state's Certified Annual Financial Report.

History Nebraska does get yearly economic impact statements from the Bureau of Business Research at the University of Nebraska–Lincoln, which uses a specialized economic modeling program developed by the Center for Urban Policy and Research at the University of Rutgers.

The Preservation Economic Impact Model has been used in evaluations for the National Parks Service as well as for several state historic tax credit programs. It takes total project expenditures, both credit eligible expenditures and ineligible expenditures, breaks them down to separate spending categories, and feeds them into the model. The model then estimates the effect of those expenditures on the economy, including jobs, wages and revenue generation. There are important things that the report does not do. It does not report foregone revenue, it does not provide a cost vs. benefit analysis, and it does not address the but-for question.

Cap Program Costs

The program contains a yearly cap on allocations, which would typically be a hard fiscal limit for the program. However, for the reasons discussed above, other provisions in the act render this cap ineffective.

Require Lawmakers to Pay for Incentives through Budget Appropriations

The Act does not go through the appropriations process. There is precedent in other states for providing historic preservation assistance in the form of grants. See the Credit Efficiency discussion on page 11 for more information.

Figure 2.33. The NHTC meets some of the Pew Report fiscal protection recommendations.

Pew Report Recommendations	NHTC Act	Audit Office Remarks
Gather and share high-quality data on the costs of incentives by:		
Regularly forecasting the cost	No	
Monitoring costs and commitments of large and high-risk programs	No	Though the program is not large in comparison to some incentives, there is potential for a larger impact. Limited information on costs is publicly available.
Sharing timely information on incentives across relevant agencies	Yes	History Nebraska and the Department of Revenue share a unified web application to administer the Act.
Design incentives in ways that reduce fiscal risk, including:		
Capping how much program can cost each year	Effectively No	The program is capped at \$15 million of allocations per year. However, unused credits roll over indefinitely and can potentially be used at any time. ¹⁷
Controlling the timing of incentive redemptions	Yes	Projects have 24 months to begin renovations ¹⁸ and 12 months to claim their credit after renovation is complete. ¹⁹
Requiring lawmakers to pay for incentives through budget appropriations	No	The JCMRA does not go through the appropriations process.
Restricting the ability of companies to redeem more in credits than they owe in taxes	Yes	Credit is nonrefundable. ²⁰
Linking incentives to company performance	Yes	Projects must be completed, approved by the State Historic Preservation Officer, and audited prior to credit being issued. ²¹
Requiring businesses to provide advance notice of program participation	Yes	Businesses must apply to participate. ²²

Source: Audit Office analysis of the NHTC using Pew Charitable Trusts report.

¹⁷ Neb. Rev. Stat. § 77-2905(2).

¹⁸ Neb. Rev. Stat. § 77-2905(4).

¹⁹ Neb. Rev. Stat. § 77-2906(1).

²⁰ Neb. Rev. Stat. § 77-2904(1).

²¹ Neb. Rev. Stat. § 77-2906(1).

²² Neb. Rev. Stat. § 77-2905(1).

Metric 14: Local Impact

What is the fiscal impact of the Act on the budgets of local governments?

Results

The Act does not provide funds to local governments or compel them to forego revenue, so there is no direct impact on local budgets. However, renovations caused by the program can increase valuations and resulting property tax revenues.

Taxed valuations for projects that participated in the program were \$714,000 lower in 2019 than they were immediately prior to application. The vast majority of projects subject to property tax also used a program that freezes its valuation, and therefore limits the amount of tax that property pays to local governments, for eight to fifteen years. However, the estimated total project valuation increases after NHTC projects end participation in those programs is more than \$78 million.

The Act does not provide funds to local governments or compel them to forego revenue, so there is no direct impact on local budgets. However, to the extent that the act caused renovations to occur, it can impact property valuations, and therefore property taxes collected. Of the 68 projects reviewed for this evaluation, 34 are exempted from property taxes, and therefore have no impact on local government budgets. We analyzed the remaining 34 projects for valuation and tax bill changes.

Valuation Changes

We found the most recent valuation prior to initial application to the program and compared that to valuations for 2019. Valuations for projects that participated in the program were \$713,910 lower in 2019 than they were immediately prior to application, shown in Figure 2.34. There are a couple of reasons for this unexpected result. The first is the use of other state programs that affect property tax collection. Thirty of the 34 projects that pay property taxes made use of either the Valuation Incentive Program or Tax Increment Financing.

Figure 2.34. Project property valuations decreased by almost \$714,000 between prior to renovation and 2019.

But-for Determination	Projects	Prior to Renovation	2019	Difference
Likely Independently Viable	10	\$6,388,760	\$6,558,335	\$169,575
Potentially Caused by Program	24	\$10,137,235	\$9,253,750	- \$883,485
Total	34	\$16,525,995	\$15,812,085	- \$713,910

Source: Audit Office analysis of NHTC information and property tax records.

Five of the taxable projects used the Valuation Incentive Program (VIP) which incentivizes historic preservation with a freeze on property valuations. Valuations are frozen for eight (8) years, and then gradually increased to their full assessments over an additional four (4) years. Because the valuations for these properties freeze completely, we cannot estimate what kind of increase to expect when they complete the VIP.

An additional 25 taxable projects used Tax Increment Financing (TIF). TIF agreements are used to help finance redevelopment of property that has been deemed substandard, blighted, and in need of redevelopment. Bonds are issued and the developer receives financing for redevelopment. The value of the property is then “divided” into “base” and “excess” valuations. Taxes on the base valuation, which is the most recent certified value of the property before it is divided, continue to go to local subdivisions like schools and counties. This valuation remains constant while the property is still under the TIF agreement. Any valuation above (in “excess” of) the base is taxed at the same rate, but that money goes to paying off the initial TIF bond. Taxes on the full valuation go to subdivisions when TIF debts are paid off or the statutory 15-year limitation is reached.

After the TIF bonds are paid off, the “excess” value will be added back to the base to be taxed and distributed to local subdivisions. As shown in Figure 2.35, for the 25 TIF using projects examined for our evaluation, their combined excess value as of 2019 was \$78,462,025.²³ The statutory limit for TIF agreements is 15 years, however the average agreement lasts about 12 years.²⁴ The excess valuations will begin to be taxed with two projects’ 2020 valuations. Based on averages, project’s excess values will be added the remaining excess values through 2030.

Figure 2.35. TIF valuations are holding property tax payments to localities steady while bonds are being repaid.

But-for Determination	TIF Projects	TIF Base Valuations	TIF Excess Valuations 2019	2019 TIF Base Payments (Property Tax Payments)	2019 TIF Excess Payments (Bond Payments)
Likely Independently Viable	8	\$6,010,940	\$60,790,290	\$135,296	\$1,368,533
Potentially Caused by Program	17	\$6,361,375	\$17,671,735	\$140,132	\$394,955
Total	25	\$12,372,315	\$78,462,025	\$275,428	\$1,763,488

Source: Audit Office analysis of NHTC information and property tax records.

The second reason that valuation was lower in 2019 is because of an outlier project. There was one TIF project that had a large reduction in valuation after the most recent valuation prior to application for the credit, but before the property was divided for TIF. If we

²³ Many TIF agreements cover more than one parcel and can include historic as well as non-historic preservation development. We found the individual parcels that are included in historic preservation projects and used the base and excess values reflected on those parcels only.

²⁴ Trevor Fitzgerald, Urban Affairs Committee Council.

remove this outlier from our valuation analysis, the difference between valuations at application to 2019 changes from a total *reduction* of \$713,910 to a total *increase* of \$1,678,290.

Taxes Paid to Local Governments

Using the parcel valuations, along with their individual mill levies, we also calculated each project’s tax bill, the actual dollar amount that was paid in property taxes prior to application, and the amount paid for 2019.²⁵ Projects in our analysis group paid \$32,256 less in property taxes for 2019 than they did prior to application, shown in Figure 2.36. The reasons for this reduction in total property taxes paid are the same as for valuations; participation in the VIP and TIF, as well as one outlier project with a large negative impact.

Figure 2.36. In 2019, local governments received \$32,256 less in taxes from NHTC projects.

But-for Determination	Projects	Tax Paid		
		Prior to Application	For 2019	Difference
Likely Independently Viable	10	\$141,498	\$146,640	\$5,142
Potentially Caused by Program	26	\$270,433	\$233,035	- \$37,398
Total	36	\$411,931	\$379,675	- \$32,256

Source: Audit Office analysis of NHTC information and property tax records.

If the outlier project is removed from the analysis, total taxes paid to local governments increased by \$15,915 from application to 2019. For TIF projects, their excess value as of 2019 would be worth an additional \$1,763,488 in property taxes. As with valuation, taxes on the excess value of projects will be added to the tax rolls when their respective TIF agreements end.

Omaha had the largest number of projects that pay property taxes with 23. The next highest number was in Lincoln, with three. Local impacts through valuation change and tax bill change through 2019 for each city with a taxable project can be seen in Figure 2.37.

²⁵ Property tax credits through the Property Tax Credit fund do not impact these amounts. Local governments receive the full tax bill (unless the property is divided through TIF). The credit draws from the General Fund and does not reduce the amount provided to localities.

Figure 2.37. Lincoln saw the largest change in tax revenue on NHTC projects.

City	Projects	Valuations		Tax Bill		
		Prior	2019	Prior	2019	Difference
Omaha	23	\$14,105,400	\$12,856,500	\$312,245	\$289,454	- \$22,791
Lincoln	3	\$1,400,100	\$1,400,100	\$52,481	\$28,214	- \$24,267
Pender	2	\$54,465	\$56,120	\$936	\$1,111	\$175
Ashland	1	\$138,120	\$138,120	\$3,040	\$2,926	- \$114
Chadron	1	\$78,220	\$78,220	\$1,529	\$1,579	\$50
Friend	1	\$91,885	\$105,495	\$2,174	\$2,210	\$36
Hastings	1	\$170,560	\$419,065	\$3,813	\$9,377	\$5,564
Norfolk	1	\$349,190	\$349,190	\$8,250	\$8,255	\$5
Red Cloud	1	\$138,055	\$409,275	\$3,378	\$8,418	\$5,040
Total	34	\$16,525,995	\$15,812,085	\$387,847	\$351,543	- \$36,302

Source: Audit Office compilation of NHTC information and property tax records.

As was mentioned above, Valuation Incentive Program and TIF projects will eventually pay full valuations to their local governments. We cannot estimate what the impact of the five projects participating in the VIP will be, as their valuation is frozen and property tax records do not reflect their valuation changes. However, we were able to make a general estimation as to the future valuation and tax bills for TIF projects because their “excess” valuation is reported and will eventually be included in property tax payments. As shown in Figure 2.38, the “excess” valuation of all projects participating in TIF is \$78.5 million, which translates to a total potential tax bill, based on 2019 mill levies, of \$1.8 million. Tax rates and valuations are sure to change between now and 2035, when these TIF agreements will all have expired, so this is a general estimate.

Figure 2.38. Omaha stands to gain the most tax revenue from NHTC projects.

City	Projects	TIF Excess Valuation	Estimated Future Tax Bill
Omaha	20	\$77,294,400	\$1,740,222
Lincoln	2	\$418,300	\$8,429
Pender	2	\$746,975	\$14,788
Friend	1	\$2,350	\$49
Total	25	\$78,462,025	\$1,763,488

Source: Audit Office analysis of NHTC information and property tax records.

Methodology/Discussion

We examined property valuations and tax rates using records found on county assessor and treasurer websites. Project details including valuations prior to rehabilitation were found in project applications housed on the NHTC administration Webapp. We also examined state TIF reports and Valuation Incentive Program data provided by History Nebraska.

III. Agency Response and Fiscal Analyst's Opinion

History Nebraska's Response to the Legislative Performance Audit of the Job Creation and Mainstreet Revitalization Act (the Nebraska Historic Tax Credit)
May 26, 2021

History Nebraska thanks the Legislative Audit Office for providing the opportunity to respond to the draft Legislative Performance Audit of the Nebraska Historic Tax Credit Program. We appreciate the Office's diligence in collecting information for this audit, and their willingness to discuss their findings and methodology with History Nebraska's staff.

History Nebraska has already discussed minor issues with the Audit Office, including citation of sources and clarity of answers, which were resolved during a discussion on May 20, 2021.

Our remaining response covers three major issues:

1. The reliability of the "but-for" methodology used in the audit
2. The lack of estimated revenue projections for Metric 10: Cost vs. Benefit
3. The value of the "Mainstreet Revitalization" portion of the tax credit

1. The Reliability of the "But-for" Methodology used in the Audit

While we appreciate the Audit Office's innovative approach in attempting to determine which historic tax credit projects would not have happened "but-for" the Nebraska Historic Tax Credit, we have doubts about its reliability.

This methodology is significant because it forms the basis for the majority of the audit's conclusions. The auditors developed a formula to determine which projects would have been completed without the Nebraska Historic Tax Credit, and then excluded those from their calculations. Although interesting, this method relies on best guesses rather than proven facts. Accepted methods of calculating economic impact (such as the PEIM mentioned in the audit report) do not incorporate "but-for" analysis because such calculations are not viewed as sufficiently reliable for decision making.

The auditors determined that if any of three factors apply to a project, it can be assumed that the rehabilitation for which the developers received tax credits would have been financially viable without credits, and thus would have happened anyway. The factors used for this analysis were:

1. Construction was already underway and thus the project had funding to begin and complete the rehabilitation.
2. The larger the credit, the more likely the credits were necessary for the funding package (therefore smaller projects would have happened without credits).
3. Nebraska Historic Tax Credit financing was not included in TIF applications.

We cannot say that these factors are wrong, but we can share reasons they might not be right.

Factor One dismisses projects where construction was underway. The only year this occurred was 2015. The law passed in 2014, and credits became available in 2015. Developers had six months to determine how to work tax credits into their projects, many of which had been planned for years. It may have been the case that these projects would have happened anyway, but the credits may have also been the catalyst that allowed a long-stalled project to move forward. Proving this with certainty after the fact is impossible.

To a degree, we agree with Factor Two – that that the larger the credit, the more likely tax credit funding was necessary for the project. However, inherent in this assumption is an urban bias toward multimillion dollar projects. A small developer in a rural town will choose a smaller project that reflects the amount of financial risk they are able to take. To describe such a person as a ‘developer’ is probably also a misnomer, as credits are typically used by business owners looking to expand or improve their own buildings. Either way, the owner takes on an inherent financial risk proportional to the budget available and the potential for profit. Although small, the tax credit could have provided the difference between a cut-rate project and an architecturally sensitive one solving long-standing problems and contributing to a property’s longevity.

Finally, Factor Three states that if TIF funding applications showed the Nebraska Historic Tax Credit was not necessary, the “but-for” analysis would apply. However, there are other reasons that the Historic Tax Credit could have been excluded from a TIF package document. The credits could have been omitted in error, or perhaps the owner originally believed they did not need the credits, but cost increases (a common occurrence with historic buildings) later made the tax credit essential.

The Audit Office’s use of the “but-for” analysis is innovative and intriguing, but we do not see it as sufficiently reliable to serve as the basis for performance audit calculations.

2. The Lack of Estimated Revenue Projections for Metric 10: Cost vs. Benefit

The performance audit does not estimate the long-term economic effects of the Nebraska Historic Tax Credit because the Legislative Audit Office lacks the modeling software needed to produce revenue generation estimates. The lack of this software and the inability to project economic benefits is a major deficiency in this audit. When reviewing tax credit programs, other states estimate economic benefit ten or twenty years into the future, but Nebraska is unable to emulate this practice. When the Nebraska Historic Tax Credit was implemented in 2015, the Legislature recognized it was forgoing immediate revenue for long-term economic benefit. In addition to the \$202 million in estimated economic activity generated by the credit so far, renovated buildings remain on the tax rolls and typically increase in valuation over time. The difference between a blighted abandoned historic structure and a renovated one hosting a business should be projected and estimated over a span of years. Without long-term economic modeling capability, it is impossible to accurately calculate the ongoing benefit of the Nebraska Historic Tax Credit program.

3. The Value of the “Mainstreet Revitalization” Portion of the Tax Credit

The official name of the tax credit program is the “Job Creation and Mainstreet Revitalization Act.” The program was intended to create jobs (it has created 3,014 as of 2020), but its intent was also to strengthen Nebraska’s communities. Multiple studies have shown that people (especially young people) gravitate to towns and cities where there is a sense of place, which is often exemplified by a historic core. There are no metrics in the performance audit that adequately measure the program’s impact for Nebraska’s main streets. For example, the former Hasting Brewery in Hastings, Nebraska was a long moldering manufacturing complex used for storage. In 2015, \$8.1 million was spent rehabilitating this long vacant building into thirty-five low to moderate income housing units. This transformation solved a housing shortage in Hastings and provided an anchor for the downtown to bring in new small businesses. A lack of affordable housing plagues many Nebraska communities, and the Nebraska Historic Tax Credit has helped both to provide housing units and to preserve a sense of place in communities.

Historic renovation projects can also spark a virtuous cycle of development, transforming entire areas. The Blackstone neighborhood in Omaha was full of historic buildings, but short on active businesses and amenities. Tax credit projects became the catalyst for massive redevelopment. First, a former Tudor Revival gas station (a defunct restaurant) was rehabilitated into a branch of the Dundee State Bank. Then, a former transient hotel became the Colonial Hotel Apartments with forty high-end market rate apartments. Finally, the Cottonwood Hotel at the site of the former Blackstone Hotel, was the subject of a \$75 million rehabilitation. While these historic tax credit projects happened over a number of years, each one influenced other developments which did not use tax credits but made neighborhood a more vibrant place with amenities contributing to the tax base. The positives that started with a few historic tax credit projects snowballed and helped create an area where parking is at a premium and restaurants are full. Although not measured in this audit, it is important to note that the Nebraska Historic Tax Credit does play a significant role in revitalizing Nebraska’s main streets.

NEBRASKA

Good Life. Great Service.

DEPARTMENT OF REVENUE



Pete Ricketts, Governor

May 27, 2021

Sen. Suzanne Geist
State Capitol, Rm. 2000
P.O. Box 94604
Lincoln, NE 68509

Honorable Chairwoman Geist and members of the Performance Audit Committee,

I am in receipt of the Legislative Audit Office draft report "Job Creation and Mainstreet Revitalization Act: Performance on Selected Metrics." The draft report was provided to the Department of Revenue (DOR) on April 28, 2021. DOR does not have any comments relating to the findings stated in the draft report.

Thank you for the time and efforts expended by the Legislative Audit Office in conducting this audit. We enjoyed working with you and the members of the audit team.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Tony Fulton".

Tony Fulton
Tax Commissioner

Legislative Auditor’s Summary of Agencies’ Responses

This summary meets the requirement of Neb. Rev. Stat. § 50-1210 that the Legislative Auditor briefly summarize the agency’s response to the draft audit report and describe any significant disagreements the agency has with the report or recommendations.

History Nebraska’s Director Trevor Jones’ response to the draft audit report raised three areas of concern about the audit, which are discussed below. He also raised a concern and pointed out two weaknesses that we address at the end of this summary.

We also provided the draft audit report to the Nebraska Department of Revenue, which had no comments.

The But-for Methodology

Tax incentive programs are designed in large part to trigger economic activity that would not have occurred but-for the incentive. Along with expanding economic activity in the state, policymakers seek to maximize the use of state funds (or, in the case of programs like NHTC, minimize the amount of tax revenue forgiven through credits) by ensuring the credits are triggering new economic activity, not simply supporting activity that would have taken place without the credit. By law, we are required to conduct a but-for analysis when possible, to examine if the program has “changed business behavior” by influencing decisions to initiate projects.¹

We looked at three factors relating to the NHTC projects that we believe make it more likely a project would have taken place without the credit. Director Jones called the analysis “innovative and intriguing” but suggested it may not be sufficiently reliable to use for the audit analysis.

In the body of the report, we acknowledge the limitations of the but-for analysis, and we do not conclude that a project that met one or more of the factors was financially viable without the NHTC. Instead, we suggest it was *more likely* that such a project had sufficient funding without the credit. We were also conservative in the factors we used to reduce the possibility of overestimating the number of projects that may not have needed the credit.

Our responses to the Director’s concerns about each of the factors we used follow.

Factor 1: Project construction began more than six months before the developer applied to the program.

We found seven projects in which construction had begun between 6.8 and 18.9 months before the developer applied to the NHTC program. Two of these began construction in the fall of 2013, although the bill creating the program was not signed until April 2014 and applications were not accepted until January 1, 2015. It strains logic to credit the

¹ Neb. Rev. Stat. § 50-1209(B)(2).

program with projects in which construction took place prior the program's creation and it is reasonable to conclude that those two projects likely would have occurred without program. Additionally, because project construction generally does not begin until funding has been arranged, it is likely that the other four projects in which construction began more than six months before applications to the program were filed would also have taken place without the program.

The Director agrees that these conclusions are possible but suggests that the six projects could have been "long-stalled" and able to move forward because of the credit. Perhaps so, but that is a different decision point than project initiation, which is what we were looking at.

Factor 2: The credit was a small proportion of the project's total cost.

Research indicates that a tax credit must be an amount of some significance to tip a project into financial viability. A smaller amount may be useful, but not be enough to make or break whether the project happens. There is no set definition of what is "significant", and we chose a conservative amount—5% of a project's total costs. Of the 39 projects that were completed (so cost and credit information were available,) 6 received credits amounting to 0.51% to 4.21% of their total costs.

The Director generally agrees that "the larger the credit, the more likely tax credit funding was necessary for the project," but argues that this factor is biased in favor of multimillion dollar projects in urban areas. We disagree that there was bias because we used the credit's *proportion* of the project costs, not the dollar amount of the credit. Even if the dollar amount of credits for urban projects is generally higher, we are looking at the proportion: 5% is 5% regardless of how large the project is. Also, we did not see that bias in our results. Four of the six projects in which the credits were less than 5% of their total costs were in Omaha. As more projects are completed, future audits will be able to determine whether that continues to be true.

Factor 3: Some applicants to the Tax Increment Financing (TIF) program did not include the NHTC as a source of funding for their TIF projects.

By law, TIF applicants must report projected costs and funding sources to make the case that TIF funding is not just desirable, but necessary for the project to be financially viable. We were able to review TIF applications for 25 of the NHTC projects in our analysis. Six of the 25 did not include the NHTC as a funding source on their TIF applications, indicating there was sufficient project funding without the credit.

The Director suggests a TIF applicant may have forgotten to include the credit on their application, but this seems unlikely. Omitting a funding source for any reason could be seen as a deceptive or even fraudulent representation of the financing needs. The Director also suggested that the credit may not have been essential at the time of the TIF application but later cost increases made it essential. That is possible but, again, we believe it is unlikely. Typical business behavior regarding incentives is to externalize costs and to maximize net present value, meaning they try use outside funding and do so as

early as possible. A dollar in credit today is worth more to a business than a dollar in credit a year or five years from now. TIF application budgets also include a contingency amount in case of cost increases or other unforeseen factors. Additionally, the argument misses the object of our but-for analysis noted above, which is to examine whether the program has “changed business behavior” by influencing decisions *to initiate* projects.

Correction

The Director incorrectly stated that the 14 projects likely to have been independently viable were excluded from the results presented in the draft report. They were included in the results presented in the body of the report but not in the summary. After the exit conference with History Nebraska, we agreed that the summary should show results for all projects and made that change in the final report.

The Director notes two other weaknesses of the audit report, which follow, with which we generally agree.

Lack of Modeling Software for Estimating Revenue Projections

The Director argues that our lack of software to model revenue projections is a “major deficiency” in the audit. We are aware of this limitation and are working with the Legislative Performance Audit Committee to upgrade existing software so revenue projections will be possible in future audits. Although we were unable to generate independent modeling for this report, we used the best information available from other research, including modeled revenue-generation results in reports prepared for History Nebraska.

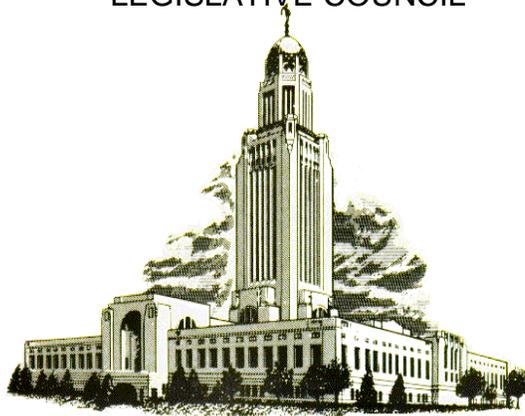
No Assessment of “Mainstreet Revitalization” Portion of the Program’s Goal

The Director also argues that the audit missed an important part of the NHTC’s benefit by not reviewing ways that projects that received the credit strengthened Nebraska’s communities. As this was our first audit of the NHTC program, we focused primarily on the metrics we are required to evaluate for all tax incentives programs. We will work with History Nebraska in the future audits to explore ways to assess how the program has strengthened communities.

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Ombudsman

May 14, 2021

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 “Job Creation and Mainstreet Revitalization Act: Performance on Selected Metrics” as to whether the recommendations can be implemented by the agency within its current appropriations.

Our review indicates that there should be no likely fiscal impact as a result of the recommendations included.

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

Sincerely,

A handwritten signature in cursive script that reads "Tom Bergquist".

Tom Bergquist
Legislative Fiscal Analyst