

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2017-18</b>		<b>FY 2018-19</b>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$697,546	\$0	\$612,078	(\$9,600,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$697,546</b>	<b>\$0</b>	<b>\$612,078</b>	<b>(\$9,600,000)</b>

**Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.**

LB 557 creates the Great Opportunities Nebraska Act.

The Act replaces the Nebraska Advantage Act, although it is similar to the Advantage Act in the tier structure, investment and employment requirements and use of tax credits.

Section 77-5725 is amended to sunset the Nebraska Advantage tiers on the effective dates of LB 557.

The bill contains the emergency clause.

The Nebraska Department of Revenue estimates the following fiscal impact of LB 557 to the General Fund:

FY2017-18:	\$ 0
FY2018-19:	(\$ 9,600,000)
FY2019-20:	(\$ 31,880,000)
FY2020-21:	(\$ 67,800,000)
FY2021-22:	(\$ 101,860,000)
FY2022-23:	(\$ 123,930,000)
FY2023-24:	(\$ 144,690,000)
FY2024-25:	(\$ 161,690,000)
FY2025-26:	(\$ 173,990,000)
FY2026-27:	(\$ 191,620,000)
FY2027-28:	(\$ 219,200,000)

The Department of Revenue estimates they will require 4.0 FTE Auditors, 2.0 FTE Fiscal Compliance Analysts, 1.0 FTE IT Application Developer/Senior, 0.5 FTE IT Database Analyst/Senior, 0.5 FTE Revenue Operations Clerk II, and 2.0 FTE Attorneys to administer the provisions of LB 557.

PSL for FY2017-18 is \$486,877 and \$460,209 for FY2018-19.

We have no basis to disagree with the Department of Revenue's estimate of fiscal impact or cost.

**State Agency Estimate**

State Agency Name: Department of Revenue		Date Due LFA: 3/6/2017				
Approved by: Tony Fulton		Date Prepared: 3/3/2017				
		Phone: 471-5896				
	<b>FY 2017-2018</b>		<b>FY 2018-2019</b>		<b>FY 2019-2020</b>	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	\$ 697,546		\$ 612,078	(\$ 9,600,000)	\$ 621,259	(\$ 31,880,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	\$ 697,546		\$ 612,078	(\$ 9,600,000)	\$ 621,259	(\$ 31,880,000)

LB 557 would replace the Nebraska Advantage Act with a new incentive program called the Great Opportunities Nebraska Act (Act). The bill increases the administrative complexities of the program while dramatically reducing the amount of time the Department has to process applications and claims from an expanded number of qualified businesses as compared to the Nebraska Advantage Act. The Act is very similar to the Nebraska Advantage Act in many ways except as detailed below:

- 1) Generally, the definitions are the same except that “average weekly wage” and “county average weekly wage” of the Nebraska Advantage Act would be replaced by “statewide median hourly wage”, “county median hourly wage” and “metro” and “non-metro” median hourly wage. The metro and non-metro areas are undefined.
- 2) The number of new employees would be changed to require the new employees to be paid at least 100% of the metro or non-metro median hourly wage instead of 60% of the state’s average weekly wage. The number of new employees include employees who are working on project activities who are based at a project location regardless of where they are working.
- 3) The definition of qualified business is expanded relative to the Nebraska Advantage Act. Businesses can either meet the qualified business definition contained in the current law for all tiers except tier 1, or they can qualify based upon being involved in any business except those in the 11 listed NAICS codes below:
  - 1) Agriculture, Forestry, Fishing and Hunting – 11;
  - 2) Mining, Quarrying, and Oil and Gas Extraction – 21;
  - 3) Utilities – 22;
  - 4) Construction – 23;
  - 5) Retail Trade – 44 and 45;
  - 6) Real Estate and Rental and Leasing – 53;
  - 7) Professional, Scientific, and Technical Services with less than seventy percent out-of-state sales of such services – 54;
  - 8) Health Care and Social Assistance – 62;
  - 9) Arts, Entertainment, and Recreation – 71;
  - 10) Accommodation and Food Services – 72; or
  - 11) Other Services (except Public Administration), except that the administrative management of the taxpayer’s activities, including headquarter facilities relating to such activities, is a qualified business.
- 4) The Great Opportunities Nebraska Act would specifically state that the taxpayer need not show interdependence of various locations in the application.
- 5) The Great Opportunities Nebraska Act would not require the taxpayer to own or lease locations where investment and new employment may occur.
- 6) The Great Opportunities Nebraska Act would expand the attainment period for a tier 5 sequential project to a tier 2 large data center from 4 years after the end of the entitlement period for sales tax refunds to 4 years after the end of all entitlement periods, including the property tax exemption.
- 7) The Great Opportunities Nebraska Act would reduce dramatically the time allowed for the Tax Commissioner to review the application (from 180 days to 30 days) and the time to offer an agreement after the application is approved (from 180 days to 10 days)

- 8) The tiers are the same as under the Nebraska Advantage Act except: the investment required for a tier 5 project would be reduced from the current \$34 million to \$25 million; and LB 557 provides a new tier 7. Tier 7 may be achieved by hiring at least five new employees at 150% of the state median hourly wage and investing at least \$1 million; or hiring ten new employees at 150% of the state median hourly wage with no investment requirement. Tier 7 projects would be entitled to a compensation credit of 5%, 6% or 7% depending on the employee's hourly wage. The 2020 sunsets currently in the Nebraska Advantage Act are not replicated in the Great Opportunities Nebraska Act. Three subsections of detail about how the compensation credit is calculated with regard to the required wage are omitted.
- 9) Many of the benefits allowed are the same as under the Nebraska Advantage Act, including compensation credits, investment credits, sales tax refunds, and property tax exemptions for tiers 2, 4, and 6. The percentage used for the computation of the compensation credit under the Greater Opportunities Act is based on each employee's hourly wage. The percentage could vary by employee. This would add complexity.
- 10) Under the Great Opportunities Nebraska Act, credits earned under tier 7 may also be used to obtain reimbursement of up to \$10,000 times the number of new employees for job training paid for by the taxpayer that is provided by a Nebraska nonprofit college of university or by a private company that is not part of the taxpayer's unitary group; or for marketing, relocation expense, and search firm fees for newly recruited employees.
- 11) Under the Great Opportunities Nebraska Act, credits could also be used against insurance premium taxes and using them that way would be counted as premiums taxes paid for purposes of the corporation income tax credit.
- 12) Under the Great Opportunities Nebraska Act, up to 25% of the credits earned for a tier 2, 4, or 6 project could also be used to obtain reimbursement for public infrastructure costs incurred after the application date and before the end of the entitlement period, including wastewater treatment, water supply, roads, electrical and natural gas improvements, and broadband services.
- 13) Under the Great Opportunities Nebraska Act, sales tax refunds must be paid by the Tax Commissioner within 30 days of receipt, but shall be subject to recovery in the normal audit processes. A request for a hearing on the refund does not waive the 30-day period.
- 14) The Department of Labor is to provide information to assist the Department of Revenue in determining whether the taxpayer is engaged in a qualified business and whether or not to approve the application.
- 15) Under the Great Opportunities Nebraska Act, benefits are to be allowed upon a claim that the taxpayer qualified for benefits signed by an owner, member, or corporate officer. This person is to declare under penalty of law that he or she has examined the claim, that it is correct, that the payment has not previously been made, and the taxpayer has not asked for a refund from the retailer. It does not include a certification that the taxpayer has met levels or required wages, or is engaged in a qualified business.
- 16) The Department may audit the taxpayer and issue a deficiency determination within three years after the date of the refund or credit. This may be protested within 60 days.
- 17) Section 40 provides that the Tax Commissioner may adopt and promulgate all rules, regulations, and procedures necessary to carry out the Act.

The remaining sections of LB 557 mostly harmonize various statutes to incorporate provisions of the new Act. Neb. Rev. Stat. § 77-5725 would be amended to sunset the Nebraska Advantage Act tiers on the effective date of the Act. LB 557 carries the emergency clause.

The estimated reduction to the General Fund revenues would be as follows (\$Millions):

FY17-18	\$ -
FY18-19	\$ 9.60
FY19-20	\$ 31.88
FY20-21	\$ 67.80
FY21-22	\$ 101.86
FY22-23	\$ 123.93
FY23-24	\$ 144.69
FY24-25	\$ 161.69
FY25-26	\$ 173.99
FY26-27	\$ 191.62
FY27-28	\$ 219.20

The Department will need 4.0 FTE Auditors, 2.0 FTE Fiscal Compliance Analysts, 1.0 FTE IT Application Developer/Senior, 0.5 FTE IT Database Analyst/Senior, 0.5 FTE Revenue Operations Clerk II, and 2.0 FTE Attorneys to administer the Act.

**Major Objects of Expenditure**

<u>Class Code</u>	<u>Classification Title</u>	<u>17-18 FTE</u>	<u>18-19 FTE</u>	<u>19-20 FTE</u>	<u>17-18 Expenditures</u>	<u>18-19 Expenditures</u>	<u>19-20 Expenditures</u>
A21212	Auditor	4.0	4.0	4.0	\$ 164,182	\$ 166,234	\$ 168,728
A21211	Fiscal Compliance Analyst	2.0	2.0	2.0	\$ 76,372	\$ 77,327	\$ 78,487
A07012	IT Applications Developer Senior	1.0	0.5	0.5	\$ 64,700	\$ 32,755	\$ 33,246
A07052	IT Database Analyst Senior	0.5	0.5	0.5	\$ 32,350	\$ 32,755	\$ 33,246
R29112	Revenue Operations Clerk II	0.5	0.5	0.5	\$ 15,267	\$ 15,457	\$ 15,689
G31113	Attorney III	2.0	2.0	2.0	\$ 134,006	\$ 135,681	\$ 137,716
Benefits.....					\$ 160,669	\$ 151,869	\$ 154,147
Operating Costs.....							
Travel.....							
Capital Outlay.....					\$ 50,000		
Aid.....							
Capital Improvements.....							
<b>Total.....</b>					<b>\$ 697,546</b>	<b>\$ 612,078</b>	<b>\$ 621,259</b>