

**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>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

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

LB 546 amends the Nebraska Advantage Act.

The bill allows an applicant to apply for project approval under the current provisions of the Act until December 31, 2017. The updated provisions of the Act pertain to applicants filling on or after January 1, 2018.

Most aspects of the Act regarding the tiers, investment levels, job creation requirements, tax credit levels, tax refunds, credit usage, time periods, definitions of wages, and certain other definitions, remain the same.

The bill creates twelve development regions in the state encompassing all counties in a region. Employment and investment goals for the Advantage Act may be achieved by what an applicant is doing either statewide or in one or more of the development regions.

“Development region” is defined as one of twelve regions in which all counties in the region share a community of economic interest and labor markets.

“Qualified business” is defined as any business activity other than those specifically excluded by statute according to the North American Industry Classification System (NAICS). “Business activity” identification is to be based on the first two or four numbers of NAICS and applied to locations owned or leased by the taxpayer.

“Qualified location” is defined as an entire place owned or leased by the taxpayer which the Department of Revenue determines is not predominantly conducting a business activity excluded from the definition of qualified business in the Advantage Act. A location may be determined to be a qualified location even if some of the activities there or employees would not be qualified on their own as long as the predominant activity qualifies.

For those tiers of the Advantage Act that require job creation in order to qualify for tax credits, an additional requirement regarding wage level is added. For a Tier 1, Tier 2, Tier 3, and Tier 4 agreement the wages paid to new employees must be at least 60% of the Nebraska weekly wage. For a Tier 6 agreement, the wages paid must be either 150% of the Nebraska weekly wage or 200% of the county average weekly wage, whichever is greater.

The timeframe for approval of and preparing an agreement is changed from 180 days to 60 days, although that time may be extended.

The Department of Labor is required to collect and report wage data by NAICS classification on a quarterly basis.

The bill contains the emergency clause.

The Department of Revenue indicates, that while the broader definition of qualified business activities will likely result in more taxpayer benefits, the employment and investment determinations through statewide or development regions will likely result in fewer taxpayer benefits. Consequently, these two changes offset and will not result in additional benefits being paid under the Advantage Act and, therefore, there is no additional fiscal impact to the General Fund or costs to implement.

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

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:546	AM:	AGENCY/POLT. SUB: Department of Revenue	
REVIEWED BY: Lyn Heaton	DATE: 2/7/2017	PHONE: <a href="tel:(402)471-4181">(402) 471-4181</a>	
COMMENTS: No basis upon which to disagree with the Dept. of Revenue's analysis.			

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB:546	AM:	AGENCY/POLT. SUB: NE Association of County Officials	
REVIEWED BY: Lyn Heaton	DATE: 2/7/2017	PHONE: <a href="tel:(402)471-4181">(402) 471-4181</a>	
COMMENTS: Concur. No fiscal impact on counties.			

**State Agency Estimate**

State Agency Name: Department of Revenue		Date Due LFA: 2/7/2017			
Approved by: Tony Fulton		Date Prepared: 2/6/2017			
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	\$0		\$0		\$0
Cash Funds					
Federal Funds					
Other Funds					
<b>Total Funds</b>	<b>\$0</b>		<b>\$0</b>		<b>\$0</b>

LB 546 would simplify the application and administrative aspects of the Nebraska Advantage Act (Act) by amending two aspects of the current act, the concepts of “qualified business” and “project”. Currently, under the Act, there are only certain types of businesses that are eligible to apply for and receive benefits under the Act.

A related complication is the concept of a project. Applicants are currently free to define their project as they wish, so the project could be as narrow as a handful of people doing the qualified activities in a particular corner of the building. Sometimes, defining a project is a very complicated and time-consuming process that must be completed before an agreement can be executed.

LB 546 would eliminate those aspects of the Nebraska Advantage Act.

New definitions set out twelve development regions. Under LB 546, employment and investment would be determined based on everything the applicant is doing either statewide or in one or more of these twelve development regions. The development regions are as follows:

- 1) The counties of Clay, Gage, Fillmore, Jefferson, Johnson, Nemaha, Nuckolls, Pawnee, Richardson, Saline, and Thayer;
- 2) The counties of Cass, Otoe, and Sarpy;
- 3) Lancaster County;
- 4) Douglas County;
- 5) The counties of Boone, Butler, Colfax, Hamilton, Merrick, Nance, Platte, Polk, Saunders, Seward, and York;
- 6) The counties of Burt, Cedar, Dakota, Dixon, Dodge, Thurston, and Washington;
- 7) The counties of Antelope, Cuming, Know, Madison, Pierce, Stanton, and Wayne;
- 8) The counties of Blaine, Brown, Boyd, Cherry, Custer, Garfield, Greeley, Holt, Howard, Keya Paha, Loup, Sherman, Rock, Valley, and Wheeler;
- 9) The counties of Buffalo and Hall;
- 10) The counties of Adams, Franklin, Harlan, Kearney, Phelps, and Webster;
- 11) The counties of Arthur, Chase, Dawson, Dundy, Frontier, Furnas, Gosper, Hayes, Hitchcock, Hooker, Keith, Logan, Lincoln, McPherson, Perkins, Red Willow, and Thomas; and
- 12) The counties of Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Grant, Kimball, Morrill, Scotts Bluff, Sheridan, and Sioux.

Neb. Rev. Stat. § 77-5715, the definition of qualified business, would be amended to provide that, for applications filed on or after January 1, 2018, a qualified business for all tiers is any business except those listed by certain North American Industrial Classification System (NAICS) codes. The classification is based upon the “predominant business activity” that is occurring at a particular place. LB 546 proposes using those classifications to determine if an entire location is conducting a non-qualified activity or not.

The bill would also allow the Department of Labor and the Department of Revenue to share information necessary to make this determination. Any location at which the predominant activity is not non-qualified is counted as a “qualified location” for purposes of measuring new investment and employment even if some of the minor activities or employees would not be qualified on their own.

A qualified business for all tiers does not include the following types of business activities:

- Agriculture, forestry, fishing and hunting – 11;
- Mining, quarrying, and oil and gas extraction – 21;
- Utilities – 22, except for wind electric power generation – 22115
- Construction – 23;
- Air transportation – 481;
- Transit and ground passenger transportation – 485;
- Scenic and sightseeing transportation – 487;
- Support activities for transportation – 488;
- Motion picture and sound recording industries – 512;
- Broadcasting (except Internet) – 515;
- Other information services – 519;
- Real estate and rental and leasing – 53;
- Legal Services – 5411;
- Accounting, tax preparation, bookkeeping, and payroll services – 5412;
- Architectural, engineering, and related services – 5413;
- Specialized design services – 5414;
- Management, scientific, and technical consulting services – 5416;
- Advertising, public relations, and related services – 5418
- Other professional, scientific, and technical services – 5419;
- Management of companies and enterprises – 55;
- Administrative and support services – 561;
- Waste management and remediation services – 562;
- Educational services – 61;
- Health care and social assistance – 62;
- Arts, entertainment, and recreation – 71;
- Accommodation and food services – 72;
- Other services (except public administration) – 81;
- Public administration – 92;
- Casinos; and
- The retail selling of tangible personal property that is not manufactured by the taxpayer unless at least seventy-five percent of the revenue is from sales to customers who are not related persons, which are delivered to a location outside Nebraska.

Under LB 546, for new applications filed on or after January 1, 2018, the applicant must increase employment and investment at all qualified locations within the state or within one or more of these twelve regions to qualify for benefits. Currently, employment and investment in different locations can only be counted if the locations are interdependent parts of the same project. The tiers to be selected and the benefits available for successful applicants would remain the same as under the current Nebraska Advantage Act. Verification that the required levels and wages have been attained may be certified either by the Department or a Certified Public Accountant approved by the Tax Commissioner.



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**2017**

**LB<sup>(1)</sup> 546**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Association of County Officials (NACO)

Prepared by: <sup>(3)</sup> Elaine Menzel Date Prepared: <sup>(4)</sup> 1/20/2017 Phone: <sup>(5)</sup> 402.434.5660

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2017-18</u>		<u>FY 2018-19</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

LB 546 has no fiscal impact to counties.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2017-18</u>	<u>2018-19</u>
	<u>17-18</u>	<u>18-19</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____