

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2021-22</b>		<b>FY 2022-23</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$597,660	(\$3,500,000)	\$457,160	(\$11,800,000)
CASH FUNDS		See below		See below
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$597,660</b>	<b>(\$3,500,000)</b>	<b>\$457,160</b>	<b>(\$11,800,000)</b>

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

LB 547 creates the Small Business Act, an incentives program within the Department of Economic Development. The Small Business Act provides for tax incentives for qualifying businesses at qualifying locations.

A qualified location is any location in this state that is used or will be used by the taxpayer to conduct business activities and that is located within an economic redevelopment area or a city or village with less than 100,000 residents. A property may qualify provided that the property is subject to depreciation, amortization, or other recovery under the Internal Revenue Code of 1986, or the components of such property that will be located and used at the qualified location. Qualified property does not include aircraft, barges, motor vehicles, railroad rolling stock, or watercraft or property that is rented by the taxpayer qualifying under the Nebraska Small Business Act to another person.

A qualifying business is defined as a business that meets the following:

- Cumulative investment of at least \$50,000 and five new employees in qualified locations; and
- Pays a minimum of 70% of the Nebraska statewide average hourly wage to new equivalent employees.

The bill prescribes the levels of credit a qualifying business is allowed:

- \$3,000 for each new equivalent employee, with an additional \$1,000 for each new equivalent employee who lives in an economic redevelopment area;
- 5% of the increased investment, increased to 6% if the increased investment is greater than \$500,000; and
- The credit shall not exceed \$50,000.

The bill prescribes the credits allowed by this act may be used:

- To obtain a sales and use tax refund paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967m the Qualified Judgement Payment Act, and sections 13-319, 13-324, and 13-2813;
- As a refundable income tax credit;
- To reduce the taxpayer’s income tax withholding employer or payor tax liability; and
- To obtain payment from the state equal to the real property taxes due after the year the required levels of employment and investment were met.

The application fee is \$500, which is credited to the Nebraska Incentives Fund. The Director has 90 days to approve an application. Should the application not be approved for any reason all but one hundred dollars of the application fee shall be refunded to the applicant. The Director of Economic Development shall not accept any new applications after December 31, 2031.

The Director of Economic Development shall not approve applications once the expected incentives from approved projects total \$15 million. On or before July 15, 2024, and on or before July 15 of every year thereafter, the Director of Economic Development must prepare a report that includes the total investment in the previous calendar year pursuant to those receiving incentives under the Small Business Act, the total number of equivalent employees added in the previous calendar year, and the total amount of credits claimed

and refunds approved in the previous calendar year. On or before September 1, 2024 and on or before every September 1 of every year thereafter, the Department of Economic Development shall present the report electronically to the Appropriations Committee of the Legislature. Any supplemental information requested by three or more committee members shall be presented within 30 days of the request.

The Tax Commissioner shall notify each municipality of the amount and taxpayer identity for each refund of local option sales and use taxes of the municipality within 30 days after the refund is allowed or approved. The Director of Economic Development shall disclose, to any municipalities in which projects exist, the approval of an application and the execution of an agreement. The Department of Revenue shall notify each municipality liable for refunds exceeding \$1,500 and the amount of the refund claimed. The notification must be made by March 1 of each year beginning in 2022 and deduct the refund in monthly installments beginning the following January if total refunds exceed \$1 million or 25% of the municipality's total sales and use tax receipts.

An agreement is valid for up to four years. Employment and investment levels must be reached by the end of the ramp-up period. The ramp-up period is two years from the date the complete application was filed with the Director of Economic Development. The taxpayer shall receive credits for each year of the performance period that the taxpayer is at or above the required levels of employment and cumulative investment. The performance period is the year during which the required increases in employment and investment were met or exceeded and each year thereafter until the third year after the year the required increases were met or exceeded.

**Revenue:**

The Department of Revenue estimates impact to the General Fund as follows:

FY21-22	(\$3,500,000)
FY22-23	(\$11,800,000)
FY23-24	(\$12,300,000)
FY24-25	(\$13,000,000)

Revenue to the Nebraska Incentives Fund is based on application demand and is indeterminable.

The City of Lincoln estimates that their sales tax revenue would decrease.

**Expenditures:**

The Department of Economic Development estimates expenditures to be \$469,960 in FY21-22 and \$336,760 for FY22-23. Expenses result from hiring of an Attorney II, an Economic Development Manager, and an Economic Development Business consultant, and the implementation of a tracking system.

The Department of Revenue estimates hiring two auditors for a cost of \$127,700 for FY21-22 and \$120,400 for FY22-23.

We have no reason to dispute their findings.

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>		
LB: 547	AM:	AGENCY/POLT. SUB: Department of Revenue
REVIEWED BY: Neil Sullivan	DATE: 2/16/2021	PHONE: (402) 471-4179
COMMENTS: The Department of Revenue assessment of fiscal impact from LB 547 appears reasonable.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 547                      AM:                      AGENCY/POLT. SUB: Department of Economic Development

REVIEWED BY: Neil Sullivan                      DATE: 1/28/2021                      PHONE: (402) 471-4179

COMMENTS: The Department of Economic Development assessment of fiscal impact from LB 547 appears reasonable.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 547                      AM:                      AGENCY/POLT. SUB: City of Lincoln

REVIEWED BY: Neil Sullivan                      DATE: 1/28/2021                      PHONE: (402) 471-4179

COMMENTS: No basis to disagree with the City of Lincoln assessment of fiscal impact from LB 547.

**State Agency Estimate**

State Agency Name: Department of Revenue				Date Due LFO:			
Approved by: Tony Fulton				Date Prepared: 2/16/2021		Phone: 471-5896	
	<b>FY 2021-2022</b>		<b>FY 2022-2023</b>		<b>FY 2023-2024</b>		
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	
General Funds	\$127,700	(\$3,500,000)	\$120,400	(\$11,800,000)	\$123,200	(\$12,300,000)	
Cash Funds							
Federal Funds							
Other Funds							
Total Funds	\$127,700	(\$3,500,000)	\$120,400	(\$11,800,000)	\$123,200	(\$12,300,000)	

LB 547 enacts the Nebraska Small Business Act. The act provides tax incentives to taxpayers who increase cumulative investment by \$150,000 and increase employment by 5 equivalent employees at a business located in either an economic redevelopment area or a city or village with a population of less than 100,000. Economic redevelopment area is defined as an area in the State in which (1) the average rate of unemployment is at least 150% of the State average, and (2) the average poverty rate is 20% or more.

To participate in the program, taxpayers must file an application with the Department of Economic Development (DED) and submit a \$500 application fee. The application fee shall be remitted to the Nebraska Incentives Fund. If the application is approved, DED will authorize the amount of credits the taxpayer expects to earn and enter into a written agreement with the taxpayer. DED may not continue to accept applications once expected credits for approved projects total \$15 million. No new applications may be accepted after December 31, 2031.

If a taxpayer reaches the minimum employment and investment levels within 2 years of the date of application they are entitled to receive the following tax benefits: 1) a refund of all sales and use taxes paid either directly or indirectly on qualifying investment, 2) a \$3,000 credit for each new equivalent employee (the amount increases by \$1,000 for each equivalent employee who lives in the economic redevelopment area), 3) an investment credit equal to 5% of investment (the credit increases to 6% for investment over \$500,000.) The credit earned by a single taxpayer cannot exceed \$50,000. A taxpayer may not qualify for benefits under this act if they are receiving benefits under any other tax incentive program offered by the State.

Credits may be used to 1) obtain a refund of sales or use tax, 2) obtain a refundable income tax credit, 3) reduce income tax withholding liability, or 4) obtain a payment from the state equal to the real property taxes due, after the year levels are met, for real property at a qualified location that is acquired by the taxpayer after the date of application. Credits may be distributed to a partner, limited liability member, shareholder, or beneficiary and used against the income tax liability of the recipient.

**Major Objects of Expenditure**

<u>Class Code</u>	<u>Classification Title</u>	<u>21-22</u> <u>FTE</u>	<u>22-23</u> <u>FTE</u>	<u>23-24</u> <u>FTE</u>	<u>21-22</u> <u>Expenditures</u>	<u>22-23</u> <u>Expenditures</u>	<u>23-24</u> <u>Expenditures</u>
A21212	Auditor	2.0	2.0	2.0	\$88,500	\$90,500	\$92,600
	Benefits.....				\$29,200	\$29,900	\$30,600
	Operating Costs.....						
	Travel.....						
	Capital Outlay.....				\$10,000	\$0	\$0
	Capital Improvements.....						
	<b>Total.....</b>				\$127,700	\$120,400	\$123,200

Employment and investment levels must be maintained through the third year following the year levels are met. A percentage of benefits will be recaptured if levels are not maintained for the required period.

For purposes of the act, base year is defined as the year prior to the year of application, except that a taxpayer with an application year in 2021 must use the larger of 2019 and 2020. Investment is equal to the value of qualified property incorporated into or used at the qualified location. Year means the taxable year of the taxpayer. Benefits may only be received for employees who are paid at least 70% of the Nebraska statewide average hourly wage.

DED will share application and agreement information with DOR so that DOR can carry out its responsibilities under this act.

The act requires the Department of Revenue (DOR) to notify each municipality of the amount and identity of the taxpayer for each refund of local option sales and use tax within 30 days after the refund is allowed or approved. Deduction of a refund of local option sales and use tax made pursuant to this act is delayed as required by 77-27,144. DOR will notify each municipality of a refund exceeding \$1,500 by March 1 of each year beginning in 2022. For municipalities with annual refunds exceeding \$1 million or 25% of the municipality's total sales and use tax receipts for the prior fiscal year, DOR will deduct the refund over a period of one year in equal monthly amounts beginning in January following the notification.

The taxpayer may request that DOR certify base-year employment levels. Upon request, DOR must complete its review within 90 days of the request plus tolling.

DED must submit an annual report of the activity under the act to the legislature.

The estimated fiscal impact to the General Fund revenues would be as follows:

FY20-21	\$	-
FY21-22	\$	(3,500,000)
FY22-23	\$	(11,800,000)
FY23-24	\$	(12,300,000)
FY24-25	\$	(13,000,000)

The bill is unclear about which agency is responsible for assuring that beneficiaries under the Act meet and maintain levels required for benefits. For purposes of this fiscal note, the Department assumes that this responsibility rests with DOR as is true for other incentive acts. Given this assumption, DOR will also need two Revenue Auditors to implement the bill.

Please complete ALL (5) blanks in the first three lines.

2021

LB<sup>(1)</sup> 547

FISCAL NOTE

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Department of Economic Development

Prepared by: <sup>(3)</sup> Anthony Goins Date Prepared: <sup>(4)</sup> 1/22/2021 Phone: <sup>(5)</sup> 402-471-3777

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

	<u>FY 2021-22</u>		<u>FY 2022-23</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>\$469,960</u>	<u>                    </u>	<u>\$336,760</u>	<u>                    </u>
CASH FUNDS	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
FEDERAL FUNDS	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
OTHER FUNDS	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
TOTAL FUNDS	<u>\$469,960</u>	<u>                    </u>	<u>\$336,760</u>	<u>                    </u>

**Explanation of Estimate:**

LB547 adopts the Nebraska Small Business Act. A tax credit is allowed if a taxpayer attains a cumulative investment in qualified property of at least \$150,000 and hires at leave 5 new employees at a qualified location and pays a minimum qualifying wage of 70% of the Nebraska statewide hourly wage. Qualified location means any location in this state that is located within an Economic Redevelopment Area (ERA) or a city or village with less than \$100,000 inhabitants. The amount of the employee credit shall be \$3,000 for each new equivalent employee, with an additional \$1,000 credit if the employee resides in an ERA. The amount of the investment credit shall be 5% of the increased investment, or 6% if the investment is greater than \$500,000. The credits shall not exceed \$50,000. To earn incentives set forth in the Nebraska Small Business Act, the taxpayer shall file an agreement with DED. The incentives may be used as a refundable credit against income taxes, against sales and use taxes, against income tax withholdings of new employees, and/or a payment from the state equal to real property taxes.

The application fee is \$500. All but \$100 of the application fee shall be refunded if the application is not approved. The director shall not approve any further applications once the expected incentives from the approved projects total \$15 million. The Act becomes operative January 1, 2022, and sunsets to new applications after December 31, 2031.

DED would be required to take applications and signed agreements, estimate and track expected credit usage, and report on the program. The administration of LB547 will require DED to add staff positions. These include an Attorney II; an Economic Development Manager, and an Economic Development Business Consultant. In addition, there will be a one-time cost of \$250,000 to develop an on-line application and databases to track applications, agreements and tax credits earned.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
A49310 Econ Dev. Bus. Consultant	0.50	1.00	\$29,700	\$60,900
G49550 Econ Dev. Manager	0.75	1.00	49,660	67,860
G31112 Attorney II	0.75	1.00	50,750	69,350
Benefits.....			25,050	79,250
Operating (Inc. OCIO Programming) ....			276,000	39,600
Travel.....			13,000	19,800
Capital outlay.....			25,800	0
Aid.....				
Capital improvements.....				
<b>TOTAL.....</b>			<b>\$469,960</b>	<b>\$336,760</b>

Please complete ALL (5) blanks in the first three lines.

**2021**

**LB<sup>(1)</sup> 547**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> City of Lincoln

Prepared by: <sup>(3)</sup> James Van Bruggen Date Prepared: <sup>(4)</sup> 1/27/21 Phone: <sup>(5)</sup> 402-441-8301

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

	<u>FY 2021-22</u>		<u>FY 2022-23</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:

The City of Lincoln's sales tax revenue would decrease.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2021-22</u>	<u>2022-23</u>
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____