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DATE PREPARED: February 24, 2012
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LB 1118

Revision: 01

Revised due to adoption on Select File

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *

	FY 2012-13		FY 2013-14	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS		See below		See below
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		See below		See below

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 1118, as amended by AM2052 and AM2092, changes the Nebraska Advantage Act to provide qualification requirements and tax incentives for a new type of tier 2 project under the Act.

The new project type is a "tier 2 large data center project." "Data center" is now defined to mean computers, supporting software equipment, and other organized assembly of hardware or software that are designed to centralize the storage, management, or dissemination of data and information, environmentally controlled structures or facilities or interrelated structures or facilities that provide the infrastructure for housing the equipment, such as raised flooring, electricity supply, communication and data lines, Internet access, cooling, security, and fire suppression, and any building housing the foregoing."

Investment and employment requirements for a tier 2 large data center project are set at $200 million of new investment (AM2092) and at least 30 new employees, considering only investment and employees at the data center.

A project would receive regular tier 2 benefits, which include a refund of all sales and use taxes paid from the date of acquisition through the meeting of the required levels of investment and employment; refund of all sales and use taxes paid during each year of the entitlement period; a tax credit based on the average wage of new employees; and an investment credit of 10% of the investment made in the project. In addition, a tier 2 large data center project would receive a personal property tax exemption for all personal property at the project beginning January 1 following acquisition and for the following nine years. The project would also be eligible, after achieving the required levels of investment and employment, to use its credits to receive a cash payment from the state equal to all real property taxes paid between the year of acquisition and through the carryover period. Credits may be carried over until fully utilized but not longer than 14 years after the application.

AM2052 added language regarding a tier 5 project that is sequential to a tier 2 large data center project to specify that the base year for such a project means the last year of the tier 2 large data center project entitlement period as it relates to direct sales tax refunds. The amendment also provides that the required level of investment for a sequential tier 5 project shall be met prior to the end of the fourth year after the expiration of the tier 2 large data center project entitlement period. A tier 5 project requires investment in qualified property of at least $30 million and maintaining the number of equivalent employees in the base year. We believe there is no fiscal impact as a result of this amendment.

The Department of Revenue estimate of fiscal impact assumes one project with a total investment of real and personal property of $1.180 billion and a second project with an investment of $200 million and that both projects are businesses that are not currently located in Nebraska. They also assume that the $200 million investment qualifying threshold prevents any business currently operating data centers in Nebraska from qualifying under the provisions of the bill as amended.

Assuming that the larger project begins in FY2011-12 and qualifies for tax credits in FY2013-14 and the smaller project begins in FY2012-13, the revenue impact to the General Fund is estimated as follows over the 15-year life of the applications. This estimate includes tax credit usage for the refund of real property taxes paid to the county:

FY2011-12:	$ 2,796,867	FY2016-17:	($ 7,763,989)	FY2021-22:	($ 6,390,529)
FY2012-13:	$ 25,792,495	FY2017-18:	($ 5,418,876)	FY2022-23:	($ 6,502,300)
FY2013-14:	$ 28,042,779	FY2018-19:	($ 4,388,295)	FY2023-24:	($ 4,784,075)
FY2014-15:	($ 17,296,603)	FY2019-20:	($ 4,140,869)	FY2024-25:	$ 1,462,296
FY2015-16:	$ 10,987,206	FY2020-21:	($ 4,455,424)	FY2025-26:	$ 1,448,569

The cumulative net fiscal impact (at the conclusion of FY2025-26) is $9,389,253.

The Department estimates the cost to implement the provisions of LB 1118 to be minimal.

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

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LEGISLATIVE FISCAL

LB 1118 Fiscal Note 2012

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 1/26/2012
Approved by: Douglas Ewald	Date Prepared: 1/30/2012	Phone: 471-5700

	FY 2012-2013		FY 2013-2014		FY 2014-2015	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds		(See Below)		(See Below)		(See Below)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds		(See Below)		(See Below)		(See Below)

LB 1118 authorizes companies to qualify for and receive tax incentives for a separate kind of tier 2 project under the Nebraska Advantage Act. The project would be called a "tier 2 large data center project." "Data center" becomes a separately defined term under the bill, meaning computers, supporting equipment, hardware and software to centralize storage and dissemination of data, and any facilities or structures for housing the computers, etc. including raised flooring, cooling, Internet access, electrical power, etc. The qualifying thresholds for a tier 2 large data center project are $300 million in new investment and 30 new employees considering only the investment and employees at the data center.

In addition to the regular tier 2 benefits, a tier 2 large data center project would receive a personal property tax exemption for all personal property at the project beginning with the January 1 following acquisition and for the following nine years. If this exemption must be recaptured, interest would be due at the property tax interest rate from the date the taxes would have been delinquent. Once the tier 2 large data center project attains the required levels of investment and employment, the project may use earned credits to obtain a cash payment equal to all real estate taxes paid at the project between the year of acquisition and through the carryover period. The investment threshold is adjusted for cumulative inflation since 2012. LB 1118 also rearranges and rewrites much of the personal property tax exemption provisions with no change in meaning.

The changes in LB 1118 are effective for applications filed on or after the effective date of the bill.

The revenue impact assumes one project with a total investment of real and personal property of $1,180 million. It is also assumed that the $300 million threshold for qualifying data center investment prohibits any business currently operating data centers in Nebraska from qualifying under the provisions of LB 1118. Assuming that a project begins in FY 2011-12 and qualifies for tax credits in FY 2013-14, the revenue impact is estimated to be $2.698 million, $24.285 million, $22.799 million in fiscal years FY 2011-12 through FY 2013-14. In fiscal year FY 2014-15 it is assumed that refunds due for direct sales and use taxes paid and tax credit usage will result in a General Fund revenue loss of ($21.464 million). The table included on page 2 represents the Department's estimate of the net annual General Fund revenue impact over the 15-year life of the application. Note also that tax credit usage includes refunds to the project for real property taxes paid to the county.

Costs to the Department to implement LB 1118 are expected to be minimal.

Major Objects of Expenditure

Class Code	Classification Title	12-13 FTE	13-14 FTE	14-15 FTE	12-13 Expenditures	13-14 Expenditures	14-15 Expenditures
Benefits							
Operating Costs							
Travel							
Capital Outlay							
Aid							
Capital Improvements							
Total							

Fiscal Year	Total General Fund Impact
FY2011-12	2.698
FY2012-13	24.285
FY2013-14	22.799
FY2014-15	(21.464)
FY2015-16	7.417
FY2016-17	1.581
FY2017-18	(3.667)
FY2018-19	(2.609)
FY2019-20	(2.326)
FY2020-21	(2.604)
FY2021-22	(2.675)
FY2022-23	(2.747)
FY2023-24	(2.820)
FY2024-25	(2.894)
FY2025-26	(2.969)