PREPARED BY: DATE PREPARED: PHONE: John Wiemer February 27, 2023 402-471-0051

**LB 209** 

Revision: 00

## **FISCAL NOTE**

## **LEGISLATIVE FISCAL ANALYST ESTIMATE**

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)						
	FY 2023-24 FY 20					
	EXPENDITURES	REVENUE	EXPENDITURES REVENUE			
GENERAL FUNDS		(\$7,632,000)		(\$19,480,000)		
CASH FUNDS		(\$247,000)		(\$788,000)		
FEDERAL FUNDS						
OTHER FUNDS						
TOTAL FUNDS		(\$7,879,000)		(\$20,268,000)		

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

LB 209 seeks to provide sales and use tax exemptions relating to data centers. Sales and use tax exemptions would apply for computers and related equipment that are acquired by a person operating a data center located in this state and are used in, or acquired or stored for later use in, the operation or maintenance of the data center, including, without limitation, the data center's servers and related equipment, temperature control infrastructure, and electrical power infrastructure. Sales and use tax exemptions would also be for electricity or other fuels purchased for electrical or backup generators and would be used in operating a data center. Additionally, the bill provides for some sales and use tax exemptions for tangible personal property relating to data centers.

Finally, LB 209 seeks to add to property that is exempt from property taxes. Under LB 209, computers and related equipment that are acquired, as described above, are to be exempt from the personal property tax.

The operative date for the bill is January 1, 2024.

The Department of Revenue (DOR) estimates the following fiscal impact as a result of the sales tax exemption under this bill:

Fiscal Year	G	eneral Fund	State Highway Capital Improvement Fund		Highway Allocation Fur	
FY23-24	\$	(7,632,000)	\$	(247,000)	\$	(44,000)
FY24-25	\$	(19,480,000)	\$	(788,000)	\$	(139,000)
FY25-26	\$	(20,730,000)	\$	(839,000)	\$	(148,000)
FY26-27	\$	(22,072,000)	\$	(893,000)	\$	(158,000)

There is estimated to be a revenue loss to the State Highway Capital Improvement Fund and the Highway Allocation Fund, which is distributed to cities and counties.

The DOR estimates minimal costs to it to implement the bill.

There is no basis to disagree with these estimates by the DOR.

It is anticipated that political subdivisions with data centers could see a significant reduction in revenue from the personal property tax exemption under this bill.

LB: 209 AM: AGENCY/POLT. SUB: Department of Revenue

REVIEWED BY: Neil Sullivan DATE: 2/24/2023 PHONE: (402) 471-4179

COMMENTS: The Department of Revenue assessment of fiscal impact from LB 209 appears reasonable.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE					
LB: 209	AM:	AGENCY/POLT. SUB: Dougla	s County Assessor		
REVIEWED E	BY: Neil Sullivan	DATE: 2/24/2023	PHONE: (402) 471-4179		
COMMENTS: No basis to disagree with the Douglas County Assessor assessment of fiscal impact from LB 209.					

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE						
LB: 209	LB: 209 AM: AGENCY/POLT. SUB: Lancaster County Assessor					
REVIEWED	BY: Neil Sullivan	DATE: 2/24/2023	PHONE: (402) 471-4179			
COMMENTS: No basis to disagree with the Lancaster County Assessor assessment of minimal fiscal impact from LB 209.						

ADMINI	ISTRATIVE SERVIC	CES STATE BUDGET DIVISION: REVIEW	V OF AGENCY & POLT. SUB. RESPONSE		
LB: 209	AM:	AGENCY/POLT. SUB: Lancas	ter County		
REVIEWED B	3Y: Neil Sullivan	DATE: 2/24/2023	PHONE: (402) 471-4179		
COMMENTS: No basis to disagree with the Lancaster County assessment of indeterminate impact from LB 209.					

ADMINIS	STRATIVE SERVICES	S STATE BUDGET DIVISION: REVIEW	OF AGENCY & POLT. SUB. RESPONSE			
LB: 209	AM:	AGENCY/POLT. SUB: Nebrask	a Association of County Officials			
REVIEWED BY	Y: Neil Sullivan	DATE: 2/24/2023	PHONE: (402) 471-4179			
COMMENTS: No basis to disagree with the Nebraska Association of County Officials general assessment of impact from LB 209.						

LB 0209 Fiscal Note 2023

State Agency Estimate							
State Agency Name: Department	t of Revenue				Date Due LFO:		
Approved by: Glen White		Date Prepared:	02/24/2023		Phone: 471-5654		
FY 2023		3-2024	FY 2024-2025		FY 202	<u>5-2026</u>	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue	
General Funds		\$(7,632,000)		\$(19,480,000)		\$(20,730,000)	
Cash Funds		\$(247,000)		\$(788,000)		\$(839,000)	
Federal Funds							
Other Funds		\$(44,000)		\$(139,000)		\$(148,000)	
Total Funds		\$(7,923,000)		\$(20,407,000)		\$(21,717,000)	

LB 209 provides a sales and use tax exemption for computer and related equipment for a data center. This includes data center servers and related equipment, temperature control, infrastructure, and electrical power infrastructure. Sale of electricity or other fuel to the data center is exempted from sales and use tax. Tangible personal property incorporated into or planned for the data center is exempted from sales and use tax. A data center may appoint construction contractors as purchasing agents to purchase materials tax free for items that will be part of the data center.

It is estimated that the fiscal impact to the General Funds revenue, the State Highway Capital Improvement Fund, and the Highway Allocation Fund are as follows:

Fiscal Year	General Fund		State Highway Capital Improvement Fund		Highway Allocation Fund	
FY23-24	\$	(7,632,000)	\$	(247,000)	\$	(44,000)
FY24-25	\$	(19,480,000)	\$	(788,000)	\$	(139,000)
FY25-26	\$	(20,730,000)	\$	(839,000)	\$	(148,000)
FY26-27	\$	(22,072,000)	\$	(893,000)	\$	(158,000)

Data centers currently participating in the Nebraska Advantage Act can already receive a refund for the proposed exemption, other than electrical power, as a direct refund for purchases during the attainment period and entitlement period; there is no fiscal impact for those project holders/taxpayers over the life of the project under LB 209, other than electrical power. There is a fiscal impact for the current project holders/taxpayers for the exemption of electricity. The estimates are net of the data center project holders/taxpayers in the incentive programs for the benefits they are currently getting. The fiscal impact is also representative of non-project holder/taxpayer data centers. The exemption may have an impact on the timing of the cash flow to and from the General Funds (from the timing of paying the sales and use tax to the time of the refund). The impact on the timing of several data centers in the Nebraska Advantage program is indeterminable.

Major Objects of Expenditure								
Class Code	Classification Title	23-24 <u>FTE</u>	24-25 <u>FTE</u>	25-26 <u>FTE</u>	23-24 Expenditures	24-25 Expenditures	25-26 Expenditures	
Benefits								
Operating Costs					\$0			
Travel								
Capital Outlay								
	S							
Total					\$0			

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LB 209 also provides a personal property tax exemption for certain computer and related equipment that will have a fiscal impact on the local government bodies that levy the tax.

It is estimated that there will be minimal costs to the Department to implement this bill.

The operative date for this bill is January 1<sup>st</sup>, 2024.

<b>LB</b> (1)	209						FISCAL NOTE
State Ag	gency OR Political	Subdivision Name:	Dougla	as County As	ssessor/Regis	ter of Deed	s Office
Prepare	ed by: (3) Mich	ael Goodwillie	Date	Prepared: (4)	1/17/2023	Phone: (5	(402) 444-6703
		ESTIMATE PRO	VIDED BY	STATE AGEN	CY OR POLITI	CAL SUBDIV	ISION
		<u>E</u> EXPENDITUR	<u>FY 2023-24</u> <u>ES</u>	<u>REVENUE</u>	EXPEND	<u>FY 202</u> ITURES	24-25 <u>REVENUE</u>
GENEI	RAL FUNDS						
CASH I	FUNDS						
FEDER	RAL FUNDS						
OTHE	R FUNDS						
TOTAL	L FUNDS						
Explana	ation of Estimate	e:	<u></u>				
proper infrastr exemp	ty that includes ructure, and ele tion—whether	there would be a	elated equip frastructure an application	ment, servers . The bill doe on or whether	s or related eques not describe the data cente	ipment, tem the process r would simp	perature control for obtaining the
some p	paperwork to re administrative	eview by our staf	f, but there	are not so ma	any data centei	s that would	r. There would be qualify as to make an administrative
data ce examp	enters filed per le, that value w	sonal property re	eturns with a 3,704,557 f	a total of \$168 or political su	3,388,933 in va bdivisions in D	lue. At a 2.2 ouglas Coun	in Douglas County, 2% tax rate, as an ty. While not all of
		BREAKDO	OWN BY MA	AJOR OBJECT	S OF EXPENDI	<u>TURE</u>	
Persona	al Services:		NIIMRER O	F POSITIONS	5 2023	-94	2024-25
	POSITION T	ITLE	23-24	24-25	EXPEND		EXPENDITURES
Benefit	s						
Operati	ing						
Travel.							
Capital	outlav						

Aid	 
Capital improvements	 
TOTAL	 

<b>LB</b> <sup>(1)</sup> 209							FISCAL NOTE
State Agency OR Political Subdivisi	on Name: (2)	Lancaster County Assessor/Register of Deeds					
Prepared by: (3) Dan Nolte		Date I	Prepared: <sup>(4)</sup>	January 12,	2023	Phone: (5)	402-441-8777
ESTIMA	ATE PROVID	ED BY S	ΓΑΤΕ AGE	NCY OR POLI	TICAL	SUBDIVIS	ION
	FY 20	)23-24				FY 2024	-25
EXPE	NDITURES		<u>EVENUE</u>	EXPE	NDITUI		REVENUE
GENERAL FUNDS	0		0				
CASH FUNDS							
FEDERAL FUNDS				_			
OTHER FUNDS				<u>-</u>			
TOTAL FUNDS				_			
<b>Explanation of Estimate:</b>							
Personal Services:	REAKDOWN	BY MAJ	OR OBJECT	rs of expen	DITUR	<u>E</u>	<del>-</del>
reisonal Services.	NUN	MBER OF	POSITION	S 20	023-24		2024-25
POSITION TITLE	<u>2</u>	3-24	<u>24-25</u>	EXPE	NDITU!	<u>RES</u>	<b>EXPENDITURES</b>
n C							
Benefits							
Operating Travel						<u> </u>	
Capital outlay							
Aid							
Capital improvements							
TOTAL						<del></del>	

<b>LB</b> <sup>(1)</sup> 209			FISCAL NOTE
State Agency OR Political Subdivision Name: (2)	Lancaster County		
Prepared by: (3) Dennis Meyer	Date Prepared: (4)	1-17-23 Pho	ne: (5) 402-441-6869
ESTIMATE PROV	IDED BY STATE AGEN	NCY OR POLITICAL SUB	DIVISION
FV	2023-24	FV	2024-25
EXPENDITURES	-	EXPENDITURES	REVENUE
GENERAL FUNDS			
CASH FUNDS			
FEDERAL FUNDS			
OTHER FUNDS			
TOTAL FUNDS			
<b>Explanation of Estimate:</b>			
BREAKDOV Personal Services:	WN BY MAJOR OBJECT	TS OF EXPENDITURE	
	TUMBER OF POSITION  23-24  24-25	S 2023-24 EXPENDITURES	2024-25 EXPENDITURES
Benefits		_	
Operating			
Travel			
Capital outlay			
Aid			
Capital improvements			
TOTAL			

**FISCAL NOTE** 

**LB**(1) 209

State Agency OR Political Subdivision Name: (2)		Nebraska Associa	Nebraska Association of County Officials (NACO)					
Prepared by: (3)	Elaine Menzel	Date Prepared: <sup>(4)</sup>	1/18/2023	Phone: (5)	402.434.5660			
	ESTIMATE PRO	OVIDED BY STATE AGE	NCY OR POLITIC	AL SUBDIVIS	ION			
	<u>EXPENDITUR</u>	Y 2023-24 ES REVENUE	EXPENDIT	<u>FY 2024</u> <u>TURES</u>	<u>-25</u> <u>REVENUE</u>			
GENERAL FUN	IDS							
CASH FUNDS			_					
FEDERAL FUN	DS		_					
OTHER FUNDS			-					
TOTAL FUNDS	<u> </u>							
Explanation of E	Estimate:							
are used in, or without limitation power infrastructurently, there	acquired or stored for on, the data center's ser acture, would be exemp e are approximately 12	t are acquired by a pers later use in, the opera vers and related equipm t from the personal prop data centers in the Stat	tion or maintenar ent, temperature of perty tax. e with the majority	nce of the da control infrastr being locate	ta center, including, ructure, and electrical ed in the Lincoln and			
	t is anticipated that num sements to build them.	ber will more than doub	e by the end of 20	124 based on	companies that have			
Given the natu frequently, whi located would r	are of this industry, suc ch would bring in new not see the expected inc	ed for exemption are related to the depreciable personal equipment at a higher crease in their tax base in their tax base in the centers of	property would be net book value. On those tax years	be expected Counties who such property	to be replaced fairly ere data centers are is placed in service.			
Personal Service	es:							
POSIT	TION TITLE	NUMBER OF POSITION <u>23-24</u> <u>24-25</u>	IS 2023-9 EXPENDIT		2024-25 EXPENDITURES			
	ments		·					
			-					

<b>LB</b> <sup>(1)</sup> 209		_	FISCAL NOTE
State Agency OR Political Subdivision Name	Sarpy County		
Prepared by: (3) Bill Conley, CFO	Date Prepared: <sup>(4)</sup>	Revised Phone: 2/28/2023	(5) 402-593-5958
ESTIMATE PR	OVIDED BY STATE AGEN	NCY OR POLITICAL SUBDI	VISION
	FY 2023-24	FY 90	)24-25
EXPENDITU		EXPENDITURES	REVENUE
GENERAL FUNDS	\$(2,207,881)		\$(2,649,457)
CASH FUNDS			
FEDERAL FUNDS			
OTHER FUNDS	\$(109,800))		\$(131,760)
TOTAL FUNDS	\$(2,317,681)	<u></u>	\$(2,781,218)
Explanation of Estimate:			
A reduction of this magnitude would no way to reduce expenditures and state 209 is passed, Sarpy County will generate enough revenue for County Currently, personal property for many result of other state incentives. Sarpy from exempt data center personal property for many from exempt data center personal proper	still provide the statutorily be forced to raise the lev operations.  y of the data centers in S y County is foregoing \$5,000 operty tax.	required services to our ci y to all other residents by 3 arpy County is exempt fron 821,193 in property taxes (	tizens. As a result, if 3.9% in order to m property taxes as a
Personal Services:	OOWN BY MAJOR OBJECT	IS OF EXPENDITURE	
POSITION TITLE	NUMBER OF POSITION 23-24 24-25	S 2023-24 EXPENDITURES	2024-25 EXPENDITURES
Benefits	<del></del> , -	<del>-</del>	
Operating			
Travel			
Capital outlay			
Aid			
Capital improvements			
TOTAL			