Multiple Agency Fiscal Note Summary

Bill Number: 5414 P S SB S-0185.1/21	**Title:** Data centers/tax preference

Estimated Cash Receipts

Agency Name	2021-23			2023-25			2025-27		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Revenue	(4,193,000)	(4,193,000)	(4,200,000)	(7,988,000)	(7,988,000)	(8,000,000)	(13,278,000)	(13,278,000)	(13,300,000)
Total $	**(4,193,000)**	**(4,193,000)**	**(4,200,000)**	**(7,988,000)**	**(7,988,000)**	**(8,000,000)**	**(13,278,000)**	**(13,278,000)**	**(13,300,000)**

Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Joint Legislative Audit and Review Committee	Fiscal note not available											
Department of Revenue	.9	359,900	359,900	359,900	.0	0	0	0	.0	0	0	0
Total $	**0.9**	**359,900**	**359,900**	**359,900**	**0.0**	**0**	**0**	**0**	**0.0**	**0**	**0**	**0**

Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Joint Legislative Audit and Review Committee	Fiscal note not available								
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Total $	**0.0**	**0**	**0**	**0.0**	**0**	**0**	**0.0**	**0**	**0**

Estimated Capital Budget Breakout

NONE

Prepared by: Ramona Nabors, OFM	**Phone:** (360) 902-0547	**Date Published:** Preliminary 2/ 8/2021

FNPID: 61837

FNS029 Multi Agency rollup

Department of Revenue Fiscal Note

Bill Number:	5414 P S SB S-0185.1/21	Title:	Data centers/tax preference	Agency:	140-Department of Revenue

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

Account	FY 2022	FY 2023	2021-23	2023-25	2025-27
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax	(1,897,000)	(2,296,000)	(4,193,000)	(7,988,000)	(13,278,000)
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	(3,000)	(4,000)	(7,000)	(12,000)	(22,000)
Total $	(1,900,000)	(2,300,000)	(4,200,000)	(8,000,000)	(13,300,000)

Estimated Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	1.3	0.6	0.9		
Account					
GF-STATE-State 001-1	289,900	70,000	359,900		
Total $	289,900	70,000	359,900		

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☒ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Kellee Gunn	Phone: 786-7429	Date: 02/05/2021
Agency Preparation:	Marianne McIntosh	Phone: 360-534-1505	Date: 02/08/2021
Agency Approval:	Don Gutmann	Phone: 360-534-1510	Date: 02/08/2021
OFM Review:	Ramona Nabors	Phone: (360) 902-0547	Date: 02/08/2021

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Note: This fiscal note reflects language in PSSB 5414, 2021 Legislative Session.

CURRENT LAW
Sales and use tax is assessed on server equipment and power infrastructure for data centers located in urban counties.

COMPARISON OF PROPOSED SUBSTITUTE BILL WITH THE ORIGINAL BILL:
The proposed substitute bill changes the expiration date for retail sales and use tax to July 1 2037. The original bill expired the retail sales tax exemption on July 1, 2031 and use tax exemption on July 1, 2027. The substitute bill also removes the community workforce and project labor agreement requirements.

PROPOSED LAW
This bill adds a new section to RCW 82.08 creating a sales tax exemption for qualifying businesses operating data centers and qualifying tenants of these data centers. The data centers must be located in counties with a population between 900,000 to 1 million as determined by the April 1, 2020 Office of Financial Management population estimates.

The exemption includes purchases of eligible server equipment and power infrastructure. The exemption for server equipment includes labor and services for installing eligible server equipment. The exemption for power infrastructure includes purchases of material and equipment as well as labor and service for constructing, installing, repairing, altering, or improving eligible power infrastructure.

Qualifying businesses or tenants must submit an application to the Department of Revenue (Department). The application must include information necessary to determine the business or tenant qualifies for the exemption. Qualifying businesses must submit records indicating it has a minimum of 1.5 megawatts of available power for customers at the time of application. In order for a qualifying tenant to obtain the exemption, they must contract for a minimum electrical capacity of 150 kilowatts for server and computer equipment in a qualifying business.

The Department can approve two applications submitted by qualifying businesses in year one and one each year beginning in year three through year six. The exemption is available on a first-in-time basis based on the date the application is received by the Department. No new exemption certificates may be issued on or after July 1, 2027. Certificates expire two years after the date of issuance unless construction has commenced. There is no limit on the number of exemption certificates that can be issued to qualifying tenants.

An eligible computer data center must be comprised of one or more buildings with a combined square footage of at least 100,000 square feet and at least 20,000 square feet dedicated to housing working servers.

Eligible server equipment requirements for qualifying businesses:
- Original server equipment installed in an eligible data center on or after the effective date of the bill.
- Replacement servers replace existing server equipment if the original server equipment qualified for this exemption and is installed and put into regular use 10 years after the effective date of this bill. The retail sales tax exemption expires before this occurs, therefore replacement servers are not exempt.

Eligible server equipment requirements for qualifying tenants:
- Original server equipment installed within the space leased in an eligible data center on or after 10 years after the effective date of this bill. The retail sales tax exemption expires before this occurs, therefore original server equipment for qualifying tenants is not exempt.

- Replacement servers replace qualifying server equipment installed and put into regular use prior to July 1, 2027. For tenants, original server equipment does not qualify due to installation date occurring after the expiration date of this exemption, therefore replacement servers replacing original servers do not qualify for the exemption.
- Replacement servers replace existing equipment in qualifying data center meeting the following requirements: has been refurbished and has a valid certificate; and is installed and put into regular use no later than 12 years after the date of the certificate of occupancy or completion of refurbishment of the data center.

The qualifying business or tenant claiming the retail sales tax exemption must complete an annual tax performance report.

Use tax exemption applies to those who qualified under the retail sales tax section.

The retail sales and use tax exemption expires July 1, 2037.

EFFECTIVE DATE
The bill takes effect 90 days after final adjournment of the session in which it is enacted.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS
- The fiscal note is written to intent. If the bill is not changed in a substitute version then the Department will need to revise the fiscal note to reflect bill as written.
- The earliest an application can be submitted to the Department is July 27, 2021. The date the Department receives the application is the effective date of the approved certificate. Therefore, there are ten months of cash collections in Fiscal Year 2022.
- The exemption is limited to data centers located in Pierce County.
- Qualifying businesses and tenants will meet the power requirements prior to applying to the Department.
- The approved application limit will be met. Two applications approved within the first year and one application approved per year in year 3 through 6.
- Data centers with one or more buildings must have a combined square footage of at least 100,000 square feet. Currently, the Department is aware of one completed data center facility, SH2 under Centeris, in Pierce County that meets this criteria. Centeris notes they have up to 750,000 square feet available for purpose-built or shared data center facilities.
- No new exemption certificates may be issued on or after July 1, 2027.
- It takes approximately 18 to 24 months to complete a data center. Twenty-five percent of the dedicated server space will be filled each year and thereafter until full capacity is reached.
- The average size of a new data center is approximately 215,000 square feet with an estimated 100,000 square feet of dedicated server space.
- The average cost per square foot for equipment including power infrastructure is $1,000.
- Servers are refreshed every three years. This is due to cost savings and upgrading equipment.

DATA SOURCES
- Department of Revenue, Annual tax performance report
- United Sates Chamber of Commerce, Technology Engagement Center, Data Centers Report 2017, https://www.uschamber.com/sites/default/files/ctec_datacenterrpt_lowres.pdf
- The Engineering Projects, https://www.theengineeringprojects.com/2018/12/what-are-data-centers-and-how-much-do-they-cost.html
- Puget Sound Business Journal, https://www.bizjournals.com/seattle/news/2019/03/21/opinion-washington-must-compete-for-moredata.html
- Centeris.com/resources, SH2 Build-to-Suit Data Sheet

REVENUE ESTIMATES
This bill decreases state revenues by an estimated $1.9 million in the 10 months of impacted collections in Fiscal Year 2022, and by $2.3 million in Fiscal Year 2023, the first full year of impacted collections. This bill also decreases local revenues by an estimated $950,000 in the 10 months of impacted collections in Fiscal Year 2023, and by $1.1 million in Fiscal Year 2023, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):
FY 2022 - ($ 1,900)
FY 2023 - ($ 2,300)
FY 2024 - ($ 4,000)
FY 2025 - ($ 4,000)
FY 2026 - ($ 5,800)
FY 2027 - ($ 7,500)

Local Government, if applicable (cash basis, $000):
FY 2022 - ($ 950)
FY 2023 - ($ 1,140)
FY 2024 - ($ 1,990)
FY 2025 - ($ 1,990)
FY 2026 - ($ 2,840)
FY 2027 - ($ 3,690)

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS:
This bill affects 6 taxpayers.

FIRST YEAR COSTS:
The Department will incur total costs of $289,900 in Fiscal Year 2022. These costs include:

Labor Costs - Time and effort equates to 1.28 FTEs.
- Amend three excise tax advisories (ETA).
- Create a Special Notice and identify publications and information that need to be updated.
- Respond to email inquiries and more difficult call backs from the telephone information center.
- Set up, program, and test computer system changes.
- Review and process applications, monitor reports, quality check and work review, and assist in creating and writing procedures.
- System testing and maintenance indefinitely, updating the data center case and corresponding letters, and perform division training.
- Provide technical advice, interpretation and analysis during the implementation process.
- Assist with the rule making process.

Object Costs - $132,000.
- Contract computer system programming.

SECOND YEAR COSTS:

The Department will incur total costs of $70,000 in Fiscal Year 2023. These costs include:

Labor Costs - Time and effort equates to 0.6 FTEs.
- Review and process applications, monitor reports, quality check and work review.
- Provide technical advice, interpretation and analysis during the implementation process.
- Assist with the rule making process.

ONGOING COSTS:
There are no ongoing costs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	1.3	0.6	0.9		
A-Salaries and Wages	97,700	46,000	143,700		
B-Employee Benefits	35,300	16,600	51,900		
C-Professional Service Contracts	132,000		132,000		
E-Goods and Other Services	16,100	6,700	22,800		
J-Capital Outlays	8,800	700	9,500		
Total $	$289,900	$70,000	$359,900		

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
EMS BAND 4	119,061	0.0		0.0		
EMS BAND 5	139,090	0.0		0.0		
EXCISE TAX EX 3	59,688	0.1	0.1	0.1		
IT SYS ADM-JOURNEY	89,916	0.3		0.2		
MGMT ANALYST4	70,956	0.2	0.1	0.2		
TAX INFO SPEC 4	64,332	0.2		0.1		
TAX POLICY SP 2	72,756	0.0		0.0		
TAX POLICY SP 3	82,344	0.4	0.4	0.4		
TAX POLICY SP 4	88,644	0.0		0.0		
WMS BAND 3	101,257	0.0		0.0		
Total FTEs		1.3	0.6	1.0		

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and dexcribe potential financing methods

NONE

None.

Part V: New Rule Making Required

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5414 P S SB S-0185.1/21	**Title:** Data centers/tax preference

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

[X] Cities: decreased sales and use tax revenue

[X] Counties: decreased sales and use tax revenue

[X] Special Districts: decreased sales and use tax revenue

[ ] Specific jurisdictions only:

[ ] Variance occurs due to:

Part II: Estimates

[ ] No fiscal impacts.

[ ] Expenditures represent one-time costs:

[ ] Legislation provides local option:

[ ] Key variables cannot be estimated with certainty at this time:

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Angie Hong	Phone: 360-725-5041	Date: 02/08/2021
Leg. Committee Contact: Kellee Gunn	Phone: 786-7429	Date: 02/05/2021
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/08/2021
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 02/08/2021

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

CHANGES FROM PREVIOUS BILL VERSION
This bill changes the retail sales tax exemption expiration date and the use tax exemption tax expiration date in sections 3 and 4 to 7/1/2037.

This bill removes requirements, in section 5, regarding community workforce agreements and project labor agreements.

SUMMARY OF BILL
Section 1 (new) establishes the intent of the bill: to extend a data center tax incentive to an urban county.

Section 2 (new) establishes a tax preference that will apply in Pierce County and will provide a sales and use tax exemption on eligible computer data centers, charges made for labor and services rendered in respect to installing eligible server equipment, and for construction, installation, repair, alteration, or improvement of eligible power infrastructures.
A review of the economic impacts of this tax preference will be completed by JLARC. The legislature may extend the expiration and expand the applicability of this tax preference state-wide if it increases the county tax base.

Section 3 (new) describes how eligible tax-exempt businesses and tenants must interact with the DOR in order to receive the tax preference benefits. This section expires 7/1/2037.

Section 4 (new) establishes a use tax exemption that expires 7/1/2037.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

CHANGES FROM PRIOR BILL:
This version does not change the finding of no impact.

SUMMARY OF CURRENT BILL:
This bill will not impact local government expenditures.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

CHANGES FROM PRIOR BILL:
Changes in this version do not alter the previous analysis of impacts.

SUMMARY OF CURRENT BILL:
This bill decreases local government revenues by an estimated $950,000 in the 10 months of impacted collections in Fiscal Year 2022, and by $1,140,000 in Fiscal Year 2023, the first full year of impacted collections, according to the Dept. of Revenue.

COUNTIES
FY 2022 - ($ 331,165)
FY 2023 - ($ 397,397)
FY 2024 - ($ 693,703)
FY 2025 - ($ 693,703)
FY 2026 - ($ 990,008)
FY 2027 - ($1,286,313)

CITIES
FY 2022 - ($ 282,382)
FY 2023 - ($ 338,859)
FY 2024 - ($ 591,516)

FY 2025 - ($ 591,516)
FY 2026 - ($ 844,174)
FY 2027 - ($1,096,832)

SPECIAL DISTRICTS
FY 2022 - ($ 326,953)
FY 2023 - ($ 392,343)
FY 2024 - ($ 684,881)
FY 2025 - ($ 684,881)
FY 2026 - ($ 977,418)
FY 2027 - ($1,269,955)

METHODOLOGY:
The distributions in this note for cities, counties, and special districts are based on DOR data for local sales and use tax distributions from Calendar Year 2019. Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. The result is a distribution of 35.21 percent to counties, 30.02 percent to cities, and 34.76 percent to special districts. The one percent DOR administrative fee has also been deducted.

SOURCES:
Department of Revenue Fiscal Note 5414-2 SB
LGFN Sales and Use Tax Distribution Model
Pierce County