Multiple Agency Fiscal Note Summary

Bill Number: 5483 SB	**Title:** Digital processing services

Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Revenue	(93,170,000)	(93,170,000)	(93,320,000)	(111,240,000)	(111,240,000)	(111,420,000)	(122,200,000)	(122,200,000)	(122,400,000)
Total $	**(93,170,000)**	**(93,170,000)**	**(93,320,000)**	**(111,240,000)**	**(111,240,000)**	**(111,420,000)**	**(122,200,000)**	**(122,200,000)**	**(122,400,000)**

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		(41,550,300)		(49,608,900)		(54,489,599)
Local Gov. Total		(41,550,300)		(49,608,900)		(54,489,599)

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Revenue	.2	37,900	37,900	37,900	.0	0	0	0	.0	0	0	0
Total $	**0.2**	**37,900**	**37,900**	**37,900**	**0.0**	**0**	**0**	**0**	**0.0**	**0**	**0**	**0**

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
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

Prepared by: Cheri Keller, OFM	**Phone:** (360) 584-2207	**Date Published:** Final

FNPID 66028

FNS029 Multi Agency rollup

Department of Revenue Fiscal Note

Bill Number: 5483 SB	Title: Digital processing services	Agency: 140-Department of Revenue

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax	(10,330,000)	(12,960,000)	(23,290,000)	(27,810,000)	(30,550,000)
GF-STATE-State 01 - Taxes 10 - Compensating Tax	(31,010,000)	(38,870,000)	(69,880,000)	(83,430,000)	(91,650,000)
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	(20,000)	(20,000)	(40,000)	(40,000)	(50,000)
Performance Audits of Government Account-State 01 - Taxes 10 - Compensating Tax	(50,000)	(60,000)	(110,000)	(140,000)	(150,000)
Total $	(41,410,000)	(51,910,000)	(93,320,000)	(111,420,000)	(122,400,000)

Estimated Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.1	0.2		
Account					
GF-STATE-State 001-1	29,300	8,600	37,900		
Total $	29,300	8,600	37,900		

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:	Clinton McCarthy	Phone: 360-786-7319	Date: 01/24/2023
Agency Preparation:	Taylor Culp	Phone: 360-534-1511	Date: 01/25/2023
Agency Approval:	Valerie Torres	Phone: 360-534-1521	Date: 01/25/2023
OFM Review:	Cheri Keller	Phone: (360) 584-2207	Date: 01/26/2023

Part II: Narrative Explanation

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

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

CURRENT LAW:
Retail sales tax is due on retail sales of digital goods, digital automated services (DAS), digital codes, and services provided by the seller exclusively in connection with these products. However, the tax does not apply to the sale to a business of digital goods, and services rendered in respect to digital goods, if the digital goods and services rendered in respect to digital goods are purchased solely for business purposes. This exemption also applies to the sale to a business of a digital code if all the digital goods obtained with the code are used solely for business purposes.

Payment processing services, such as electronic credit card processing activities, and data processing services are excluded from the definition of "digital automated services" and are not included within the definition of “retail sale” for sales tax purposes. As a result, payment processing and data processing services are not subject to retail sales tax.

The retail sale of two or more items for one nonitemized price (a “bundled transaction”) is generally subject to retail sales tax if the retail sale of any of the items included in the bundled transaction would be subject to retail sales tax. Thus, while a stand-alone sale of data processing or payment processing services is not subject to retail sales tax, a bundled transaction involving data processing or payment processing services and a product that is subject to retail sales tax, such as prewritten computer software, would be subject to retail sales tax.

PROPOSAL:
This bill extends the sales and use tax exemptions for sales to a business of digital goods purchased solely for business purposes to include digital automated services purchased by a financial institution solely for business purposes.

"Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

The new tax preference performance provisions do not apply to this bill (see section 4 of the bill).

EFFECTIVE DATE:
The bill takes effect 90 days after final adjournment of the session.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:
- Some uncertainty exists on the part of DAS vendors and financial institutions as to when a particular transaction involves digital automated services (DAS). As a result, some vendors may not be collecting retail sales tax from financial institutions on sales of DAS, and financial institutions may not be paying the use tax on some purchases of DAS.
- Washington-chartered banks pay retail sales tax or use tax on purchases of DAS.
- Out-of-state banks paying use tax to Washington pay either retail sales tax or use tax on purchases of DAS.
- Out-of-state banks not paying use tax to Washington are also not paying retail sales tax on purchases of DAS used in Washington. This estimate does not include the impact from exempting these taxpayers.
- Twenty-five percent of use tax paid by credit unions is for DAS purchases.
- Multiplying taxable income reported for business and occupation tax purposes under the service and other activities classification by 7.29% determines the bank's estimated DAS purchases. Audit data informed the ratio of DAS purchases in relation to a bank’s Washington business activity.

- This estimate assumes the legislation is effective July 21, 2023, and is implemented on August 1, 2023.
- Local revenue estimates use the statewide average local sales and use tax rate of 2.9231%.

DATA SOURCES:
- Department of Revenue excise tax return and audit data
- Economic and Revenue Forecast Council November 2022 forecast

REVENUE ESTIMATES:
This bill decreases state revenues by an estimated $41.4 million in the 10 months of impacted collections in fiscal year 2024, and by $51.9 million in fiscal year 2025, the first full year of impacted collections.

This bill also decreases local revenues by an estimated $18.6 million in the 10 months of impacted collections in fiscal year 2024, and by $23.3 in fiscal year 2025, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):
FY 2024 - ($ 41,410)
FY 2025 - ($ 51,910)
FY 2026 - ($ 54,370)
FY 2027 - ($ 57,050)
FY 2028 - ($ 59,870)
FY 2029 - ($ 62,530)

Local Government, if applicable (cash basis, $000):
FY 2024 - ($ 18,630)
FY 2025 - ($ 23,340)
FY 2026 - ($ 24,450)
FY 2027 - ($ 25,660)
FY 2028 - ($ 26,920)
FY 2029 - ($ 28,120)

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:
This legislation will affect 315 financial institutions.

FIRST YEAR COSTS:
The department will incur total costs of $29,300 in fiscal year 2024. These costs include:

Labor Costs - Time and effort equate to 0.28 FTE.
- Create a Special Notice to inform affected taxpayers of the reporting change.
- Update or create publications in print and information on the department's website.
- Respond to tax ruling requests and email inquiries.
- Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.

SECOND YEAR COSTS:
The department will incur total costs of $8,600 in fiscal year 2025. These costs include:

Labor Costs - Time and effort equate to 0.1 FTE.
- Process tax return work items, assist taxpayers with reporting questions, and respond to inquiries via email, web message, and paper correspondence.
- Examine accounts and make corrections as necessary.

ONGOING COSTS:
There are no ongoing costs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.1	0.2		
A-Salaries and Wages	17,900	5,600	23,500		
B-Employee Benefits	5,900	1,800	7,700		
E-Goods and Other Services	3,700	900	4,600		
J-Capital Outlays	1,800	300	2,100		
Total $	$29,300	$8,600	$37,900		

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EMS BAND 4	126,619	0.0		0.0		
EXCISE TAX EX 2	55,872	0.1	0.1	0.1		
MGMT ANALYST4	73,260	0.0		0.0		
TAX POLICY SP 2	75,120	0.1		0.1		
TAX POLICY SP 3	85,020	0.0		0.0		
TAX POLICY SP 4	91,524	0.0		0.0		
WMS BAND 3	107,685	0.0		0.0		
Total FTEs		0.3	0.1	0.2		

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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Should this legislation become law, the department will use the expedited rulemaking process to amend WAC 458-20-146, titled: "National and state banks, mutual savings banks, savings and loan associations and other financial institutions" and WAC 458-20-15503, titled: "Digital products."

Persons affected by this rulemaking would include financial institutions who will benefit from the expanded exemption.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5483 SB	**Title:** Digital processing services

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

Legislation Impacts:

- [X] Cities: Significant sales and use revenue loss
- [X] Counties: Significant sales and use revenue loss
- [X] Special Districts: Significant sales and use revenue loss
- [ ] 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:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City	(5,493,109)	(6,881,866)	(12,374,975)	(14,775,078)	(16,228,702)
County	(6,752,459)	(8,459,602)	(15,212,061)	(18,162,411)	(19,949,293)
Special District	(6,198,132)	(7,765,132)	(13,963,264)	(16,671,411)	(18,311,604)
TOTAL $	(18,443,700)	(23,106,600)	(41,550,300)	(49,608,900)	(54,489,599)
GRAND TOTAL $					(145,648,799)

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Angie Hong	Phone: 360-725-5041	Date: 01/26/2023
Leg. Committee Contact: Clinton McCarthy	Phone: 360-786-7319	Date: 01/24/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/26/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/26/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

Section 1 describes legislative intent.

Section 2 and 3 amend sales and use tax exemption law for digital codes to extend the sales and use tax exemptions for sales to a business of digital goods purchased solely for business purposes to include digital automated services purchased by a financial institution solely for business purposes.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

This bill will not impact local government expenditures.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

According to the Dept. of Revenue fiscal note, this bill will decrease local government revenues by an estimated $18.6 million in the 10 months of impacted collections in fiscal year 2024, and by $23.3 in fiscal year 2025, the first full year of impacted collections.

TOTAL LOCAL REVENUE IMPACT (DOR #s)
FY 2024 - ($ 18,630,000)
FY 2025 - ($ 23,340,000)
FY 2026 - ($ 24,450,000)
FY 2027 - ($ 25,660,000)
FY 2028 - ($ 26,920,000)
FY 2029 - ($ 28,120,000)

METHODOLOGY
The distributions for cities, counties, and special districts are based on DOR data for local sales and use tax distributions from Calendar Year 2021. Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. The result is a distribution of 36.61 percent to counties, 29.78 percent to cities, and 33.61 percent to special districts with a one percent DOR administrative fee deducted.

COUNTIES
FY 2024 ($6,752,459)
FY 2025 ($8,459,602)
FY 2026 ($8,861,923)
FY 2027 ($9,300,488)
FY 2028 ($9,757,176)
FY 2029 ($10,192,117)

CITIES
FY 2024 ($5,493,109)
FY 2025 ($6,881,866)
FY 2026 ($7,209,153)
FY 2027 ($7,565,925)
FY 2028 ($7,937,439)
FY 2029 ($8,291,263)

SPECIAL DISTRICTS

FY 2024	($6,198,132)
FY 2025	($7,765,132)
FY 2026	($8,134,424)
FY 2027	($8,536,987)
FY 2028	($8,956,184)
FY 2029	($9,355,420)

SOURCES

Department of Revenue Fiscal Note
Department of Revenue Local Tax Distributions