Individual State Agency Fiscal Note

Bill Number: SB 5483	Bill Title: AN ACT Relating to classification of digital processing services	Agency: 140 Department of Revenue

Part I: Estimates

[ ] No Fiscal Impact

Estimated Cash Receipts to:

Fund	Fiscal Year 2024	Fiscal Year 2025	2023-2025 Total	2025-27 Biennium	2027-29 Biennium
GF-State Retail Sales Tax	(10,330,000)	(12,960,000)	(23,290,000)	(27,810,000)	(30,550,000)
GF-State Use Tax	(31,010,000)	(38,870,000)	(69,880,000)	(83,430,000)	(91,650,000)
Performance Audit Retail Sales Tax	(20,000)	(20,000)	(40,000)	(40,000)	(50,000)
Performance Audit Use 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:

	Fiscal Year 2024	Fiscal Year 2025	2023-2025 Total	2025-27 Biennium	2027-29 Biennium
FTE Staff Years	.27	.1	.19		
Fund					
GF-State 001	29,300	8,600	37,900		
Total	29,300	8,600	37,900		

The revenue and expenditures 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:

[X] 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:**	**1/24/2023**
Agency Preparation:	**Taylor Culp**	**Phone:**	**(360) 534-1511**	**Date:**	**1/23/2023**
Agency Approval	**Valerie Torres**	**Phone:**	**(360) 534-1521**	**Date:**	**1/25/2023**
OFM Review:		**Phone:**		**Date:**	

Part II: Narrative Explanation

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

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 - Revenue Impact

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 - Expenditure Impact

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:

	Fiscal Year 2024	Fiscal Year 2025	2023-2025 Total	2025-27 Biennium	2027-29 Biennium
Salaries and Wages	17,900	5,600	23,500		
Benefits	5,900	1,800	7,700		
Supplies & Material	3,700	900	4,600		
Office Equipment	1,800	300	2,100		
Total	29,300	8,600	37,900		

III. B - FTE Detail:

Job Classification	Salary	FY 2024 FTEs	FY 2025 FTEs	2023 - 2025 Total	2025 - 2027	2027 - 2029
EMS BAND 4	126,619	.01		.01		
EXCISE TAX EX 2	55,872	.1	.1	.1		
MGMT ANALYST4	73,260	.01		.01		
TAX POLICY SP 2	75,120	.1		.05		
TAX POLICY SP 3	85,020	.03		.02		
TAX POLICY SP 4	91,524	.01		.01		
WMS BAND 3	107,685	.01		.01		
Total		.27	.1	.21		

III. C - Expenditures by Program (optional):

	Fiscal Year 2024	Fiscal Year 2025	2023-2025 Total	2025-27 Biennium	2027-29 Biennium
Total					

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

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.

Revenue Impact Detail

			First Biennium		Second Biennium		Third Biennium	
FUND	SOURCE	CODE	1st YEAR	2nd YEAR	3rd YEAR	4th YEAR	5th YEAR	6th YEAR
GF-State	Retail Sales Tax	0101	(10,330,000)	(12,960,000)	(13,570,000)	(14,240,000)	(14,950,000)	(15,600,000)
GF-State	Use Tax	0110	(31,010,000)	(38,870,000)	(40,710,000)	(42,720,000)	(44,830,000)	(46,820,000)
Total			(41,340,000)	(51,830,000)	(54,280,000)	(56,960,000)	(59,780,000)	(62,420,000)
OTHER								
Performance Audit	Retail Sales Tax	0101	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	(30,000)
Performance Audit	Use Tax	0110	(50,000)	(60,000)	(70,000)	(70,000)	(70,000)	(80,000)
Total			(70,000)	(80,000)	(90,000)	(90,000)	(90,000)	(110,000)
Net			(41,410,000)	(51,910,000)	(54,370,000)	(57,050,000)	(59,870,000)	(62,530,000)

Revenue Impact - by Biennium

FUND	SOURCE	CODE	1st Biennium	2nd Biennium	3rd Biennium
GF-State	Retail Sales Tax	0101	(23,290,000)	(27,810,000)	(30,550,000)
GF-State	Use Tax	0110	(69,880,000)	(83,430,000)	(91,650,000)
Total			(93,170,000)	(111,240,000)	(122,200,000)
OTHER					
Performance Audit	Retail Sales Tax	0101	(40,000)	(40,000)	(50,000)
Performance Audit	Use Tax	0110	(110,000)	(140,000)	(150,000)
Total			(150,000)	(180,000)	(200,000)
Net			(93,320,000)	(111,420,000)	(122,400,000)