# Multiple Agency Fiscal Note Summary

| **Bill Number:** 1459 HB | **Title:** Data center tax incentive |
|---|---|

## 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 | (700,000) | (700,000) | (700,000) | (14,880,000) | (14,880,000) | (14,900,000) | (28,550,000) | (28,550,000) | (28,600,000) |
| **Total $** | **(700,000)** | **(700,000)** | **(700,000)** | **(14,880,000)** | **(14,880,000)** | **(14,900,000)** | **(28,550,000)** | **(28,550,000)** | **(28,600,000)** |

## 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 | .1 | 16,800 | 16,800 | 16,800 | .0 | 8,400 | 8,400 | 8,400 | .0 | 8,400 | 8,400 | 8,400 |
| Department of Revenue | .3 | 98,700 | 98,700 | 98,700 | .3 | 58,400 | 58,400 | 58,400 | .2 | 37,400 | 37,400 | 37,400 |
| **Total $** | **0.4** | **115,500** | **115,500** | **115,500** | **0.3** | **66,800** | **66,800** | **66,800** | **0.2** | **45,800** | **45,800** | **45,800** |

## 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 | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| 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:** Cheri Keller, OFM | **Phone:** (360) 584-2207 | **Date Published:** Final 1/30/2022 |
|---|---|---|

FNPID 64215

# Individual State Agency Fiscal Note

| Bill Number: 1459 HB | Title: Data center tax incentive | Agency: 014-Joint Legislative Audit and Review Committee |
|---|---|---|

## Part I: Estimates

☐ **No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|
| FTE Staff Years | 0.1 | 0.0 | 0.1 | 0.0 | 0.0 |
| **Account** | | | | | |
| General Fund-State 001-1 | 12,600 | 4,200 | 16,800 | 8,400 | 8,400 |
| **Total $** | 12,600 | 4,200 | 16,800 | 8,400 | 8,400 |

**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: | Kyle Raymond | Phone: 360-786-7190 | Date: 01/25/2022 |
| Agency Preparation: | Pete van Moorsel | Phone: 360-786-5185 | Date: 01/28/2022 |
| Agency Approval: | Keenan Konopaski | Phone: 360-786-5187 | Date: 01/28/2022 |
| OFM Review: | Gaius Horton | Phone: (360) 819-3112 | Date: 01/30/2022 |

## 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.*

This bill expands eligibility and extends the expiration date for the current sales and use tax exemption provided under RCW 82.08.986 and 82.12.986 for sales of eligible equipment and infrastructure at data centers and charges to install, repair, alter, or improve qualifying equipment and infrastructure for qualifying businesses and tenants of eligible computer data centers.

Section 1: States the Legislature's intent to encourage additional data technology facility investments in order to spur local economic development, and increase local tax revenues and rural construction and trade jobs.

TAX PERFORMANCE STATEMENT DETAILS

Section 2: Provides a new tax preference performance statement that categorizes the preference as intended to :
• Induce certain designated behavior by taxpayers, as indicated under RCW 82.32.808 (2)(a).
• Improve industry competitiveness as indicated in RCW 82.32.808 (2)(b).
• Create or retain jobs as indicated in RCW 82.32.808 (2)(c).
• Reduce structural inefficiencies in the tax structure as indicated in RCW 82.32.808 (2)(d).

The Legislature's specific public policy objective is stated to maintain and grow the existing data center sector in Washington, and encourage development of new data center facilities and refurbishment of existing data centers, thereby increasing the competitiveness of Washington's tax structure, which will increase or maintain construction and trade job growth in rural areas, and increase local tax revenue.

The Legislature intends to extend the expiration date of the preference if a review finds the preference is:
• Generating capital investment in new computer data centers, refurbished data centers, and existing data centers.
• Generating state and local tax collections from data center investment and operations, and
• Generating construction and trade jobs in the state.
The review must factor in changing economic conditions.

To obtain data to perform the review, JLARC staff is directed to refer any available data source, including Department of Revenue (DOR) rural county property tax assessments and employment data available from the Employment Security Department.

SALES AND USE TAX EXEMPTIONS

Sections 3 and 4: These sections extend and expand the current sales and use tax exemptions for data center equipment and power infrastructure to allow new exemption certificate issuance from January 1, 2026, to July 1, 2035, and to provide an expiration date of July 1, 2047. Among their provisions, these sections :

• Clarify the calculation for determining the net increase in family wage employment positions.
• Amend the definition of "family wage employment positions" for new exemption certificates to reduce the requisite wage level.
• Permit beneficiaries of the sales and use tax deferral program under chapter 82.60 RCW to also qualify for this preference.
• Regulate the transfer of exemption certificates.
• Amend the definitions of "eligible computer data center" and "eligible server equipment" to expand the data centers and server equipment that qualify for the preference based on the date they are constructed or installed.
• Provide a July 1, 2047 expiration date for the sections creating the sales and use tax exemptions.

**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 .*

**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.*

JLARC staff would contact and work with the Department of Revenue, county assessors' offices, and the Employment Security Department immediately after passage of the bill to ensure project contacts are established and data necessary for JLARC staff's future evaluation needs are identified and collected.

The expenditure detail reflects work conducted to prepare for the future review of the preference. Costs associated with the review are not included in this fiscal note. This fiscal note reflects only the costs associated with establishing data collection.

This tax preference review may require additional resources. The audit will be conducted and presented to JLARC consistent with the processes used for other tax preference reviews. Based on all tax preference legislation that is passed, JLARC may subsequently determine that it can absorb the costs for this proposed bill in its base budget, if the workload of other enacted tax preference legislation does not exceed current staffing. JLARC will assess all of the tax preference reviews mandated in the 2022 legislative session.

This audit will require an estimated 2 audit months.

JLARC Audit Months: JLARC calculates its staff resources in "Audit Months" to estimate the time and effort to undertake and complete its studies. An "Audit Month" reflects a JLARC analyst's time for a month, together with related administrative, support, and goods/services costs. JLARC's anticipated 2021-23 costs are calculated at approximately $21,000 per audit month.

# Part III: Expenditure Detail

**III. A - Operating Budget Expenditures**

| Account | Account Title | Type | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|---|---|
| 001-1 | General Fund | State | 12,600 | 4,200 | 16,800 | 8,400 | 8,400 |
| | | **Total $** | 12,600 | 4,200 | 16,800 | 8,400 | 8,400 |

**III. B - Expenditures by Object Or Purpose**

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|
| FTE Staff Years | 0.1 | | 0.1 | | |
| A-Salaries and Wages | 8,000 | 2,700 | 10,700 | 5,400 | 5,400 |
| B-Employee Benefits | 2,500 | 800 | 3,300 | 1,600 | 1,600 |
| C-Professional Service Contracts | | | | | |
| E-Goods and Other Services | 1,900 | 600 | 2,500 | 1,200 | 1,200 |
| G-Travel | 200 | 100 | 300 | 200 | 200 |
| J-Capital Outlays | | | | | |
| M-Inter Agency/Fund Transfers | | | | | |
| N-Grants, Benefits & Client Services | | | | | |
| P-Debt Service | | | | | |
| S-Interagency Reimbursements | | | | | |
| T-Intra-Agency Reimbursements | | | | | |
| 9- | | | | | |
| **Total $** | 12,600 | 4,200 | 16,800 | 8,400 | 8,400 |

**III. C - Operating FTE 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 |
|---|---|---|---|---|---|---|
| Research Analyst | 119,519 | 0.1 | | 0.1 | | |
| Support staff | 81,590 | | | | | |
| **Total FTEs** | | 0.1 | | 0.1 | | 0.0 |

**III. D - 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 describe potential financing methods*

NONE

**IV. D - Capital FTE Detail:** *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

NONE

# Part V: New Rule Making Required

# Department of Revenue Fiscal Note

| Bill Number: 1459 HB | Title: Data center tax incentive | 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<br>01 - Taxes 01 - Retail Sales Tax | | (700,000) | (700,000) | (14,880,000) | (28,550,000) |
| Performance Audits of Government Account-State<br>01 - Taxes 01 - Retail Sales Tax | | | | (20,000) | (50,000) |
| **Total $** | | (700,000) | (700,000) | (14,900,000) | (28,600,000) |

**Estimated Expenditures from:**

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|
| FTE Staff Years | | 0.7 | 0.3 | 0.3 | 0.2 |
| **Account** | | | | | |
| GF-STATE-State 001-1 | | 98,700 | 98,700 | 58,400 | 37,400 |
| **Total $** | | 98,700 | 98,700 | 58,400 | 37,400 |

**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: | Kyle Raymond | Phone: 360-786-7190 | Date: 01/25/2022 |
| Agency Preparation: | Marianne McIntosh | Phone: 360-534-1505 | Date: 01/30/2022 |
| Agency Approval: | Don Gutmann | Phone: 360-534-1510 | Date: 01/30/2022 |
| OFM Review: | Cheri Keller | Phone: (360) 584-2207 | Date: 01/30/2022 |

## 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 HB 1459, 2022 Legislative Session.

CURRENT LAW:
The law provides a retail sales and use tax exemption for qualifying businesses operating data centers, and qualifying tenants of these data centers (RCW 82.08.986 and 82.12.986). The exemption includes purchases of eligible server equipment and power infrastructure, and labor and services for installing eligible server equipment, and for constructing, installing, repairing, altering, or improving eligible power infrastructure.

Requirements to qualify:
- Facility must meet employment and facility size criteria;
- Facility is located in a rural county as defined in RCW 82.14.370; and
- Commencement of construction must occur:
  1. After March 31, 2010, and before July 1, 2011 ("Window 1"); or
  2. After March 31, 2012, and before July 1, 2015 ("Window 2"); or
  3. After June 30, 2015, and before July 1, 2025 ("Window 3").

This exemption is limited to eight data centers that begin construction between July 1, 2015, and July 1, 2019, and a total of 12 data centers that begin construction during Window 3.

This exemption expires January 1, 2026, or 12 years from date of the certificate of occupancy, as explained in the Department of Revenue's (Department) Excise Tax Advisory 3213.2019. Business or tenants claiming the exemption must file an annual tax performance report.

PROPOSAL:
This proposal removes the limit on the number of eligible data centers as well as the requirement that qualifying server space cannot be utilized previously for housing working servers. The exemption is extended to persons who have previously received the benefit of the sales and use tax deferral under RCW 82.60. A definition of "certificate of occupancy" is added, along with guidance on assigning or transferring exemption certificates. The definition of "replacement server equipment" is updated to include replacing server equipment for data centers that did not qualify for this exemption previously if the data center is refurbished. The bill defines "refurbished" broadly as any substantial improvement to an eligible computer data center for which a certificate of occupancy is not issued, including improvements that update or modernize servers, server space, ventilation, or power infrastructure.

For data centers that commenced construction during Window 1, the exemption for original server equipment purchased by qualified businesses and qualified tenants is extended from January 1, 2026, to July 1, 2035. The exemption for replacement server equipment purchased by qualified tenants is extended from April 1, 2024, to July 1, 2035.

For data centers that commenced construction during Window 2, the exemption for original server equipment purchased by qualifying businesses and extended from January 1, 2026, to July 1, 2035. The exemption for replacement server equipment purchased by qualifying businesses and qualifying tenants expires either 12 years after the issuance of a certificate of occupancy or 12 years after the completion of a data center refurbishment.

The retail sales tax exemption for purchases of eligible power infrastructure is extended from January 1, 2026, to July 1, 2047. The use tax exemption for qualifying power infrastructure expires January 1, 2026.

No new exemption certificates may be issued on or after July 1, 2035.

This exemption expires July 1, 2047.

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:
- 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.
- Data centers with one or more buildings must have a combined square footage of at least 100,000 square feet.
- The average size of a new data center is approximately 210,000 square feet with an estimated 100,000 square feet of dedicated server space.
- For a new data center, the average cost per square foot for eligible servers and power infrastructure is $800 per square foot.
- Servers are refreshed every three years. This is due to cost savings and upgrading equipment. The cost for replacement servers and power infrastructure maintenance is $200 per square foot.
- The current data center program limits new data centers to 12. At this time, the limit has been met. The bill removes the limit on the number of new data centers.
- To estimate the local government impacts, this estimate uses the statewide average rural local tax rate for Fiscal Year 2021 of 1.846 percent.
- Two new data centers will be completed each year starting in Fiscal Year 2025. Exempt server purchases and power infrastructure installs for the data centers will be part of the build process; therefore, the impact will begin in Fiscal Year 2024.
- Previous owners whose exemption expired April 1, 2018, will reapply to refresh their server equipment.
- Owners and tenants whose exemption expire April 1, 2024, will have their certificates extended to July 1, 2035, or 12 years from their certificate of occupancy.
- Data centers that did not qualify previously, will qualify for refurbishment.
- The use tax exemption for qualifying power infrastructure expires January 1, 2026. For this assessment, assume qualifying owners and tenants will utilize the retail sales tax exemption for qualifying power infrastructure purchases after January 1, 2026.
- Revenues as estimated assume passage of the proposal by March 10, 2022, allowing a full 90 days to implement.
- The earliest an application can be submitted to the Department is June 8, 2022. The Department has 60 days to approve an application; therefore, this bill impacts 10 months of collections in Fiscal Year 2023.

DATA SOURCES:
- Department of Revenue, Annual tax performance reports, data center applications and buyers addendums.

REVENUE ESTIMATES:
This bill decreases state revenues by an estimated $700,000 in the 11 months of impacted collections in Fiscal Year 2023, and by $4.6 million in Fiscal Year 2024, the first full year of impacted collections. This bill also decreases local revenues by an estimated $200,000 in the 11 months of impacted collections in Fiscal Year 2023, and by $1.5 million in Fiscal Year 2024, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):

| | |
|---|---|
| FY 2022 - | $ 0 |
| FY 2023 - | ($ 700) |
| FY 2024 - | ($ 4,600) |
| FY 2025 - | ($ 10,300) |
| FY 2026 - | ($ 13,300) |
| FY 2027 - | ($ 15,300) |

Local Government, if applicable (cash basis, $000):

| | |
|---|---|
| FY 2022 - | $ 0 |
| FY 2023 - | ($ 200) |
| FY 2024 - | ($ 1,500) |
| FY 2025 - | ($ 2,500) |
| FY 2026 - | ($ 3,500) |
| FY 2027 - | ($ 4,500) |

**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*

ASSUMPTIONS:
This bill affects 50 taxpayers.

FIRST YEAR COSTS:
The Department will not incur costs in Fiscal Year 2022.

SECOND YEAR COSTS:
The Department will incur total costs of $98,700 in Fiscal Year 2023. These costs include :

Labor Costs – Time and effort equates to 0.68 FTEs.
- Identify publications and information that need to be created or updated.
- Respond to email inquiries and more difficult call backs from the telephone information center.
- Review and prepare refunds and assessments.
- System testing, implementation meetings, and assist in procedure development.
- Amend three excise tax advisories (ETA).

Object Costs - $26,400.
- Computer system changes, including contract programming.

ONGOING COSTS:
Ongoing costs for the 2023-2025 Biennium equal $58,400 and include similar activities described in the second year costs. Time and effort equates to 0.3 FTEs.

## Part III: Expenditure Detail

### III. A - Expenditures by Object Or Purpose

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---|---|---|---|---|
| FTE Staff Years | | 0.7 | 0.3 | 0.3 | 0.2 |
| A-Salaries and Wages | | 43,800 | 43,800 | 36,900 | 23,800 |
| B-Employee Benefits | | 15,800 | 15,800 | 13,300 | 8,600 |
| C-Professional Service Contracts | | 26,400 | 26,400 | | |
| E-Goods and Other Services | | 8,100 | 8,100 | 6,900 | 4,600 |
| J-Capital Outlays | | 4,600 | 4,600 | 1,300 | 400 |
| **Total $** | | $98,700 | $98,700 | $58,400 | $37,400 |

**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 | 122,633 | | 0.0 | 0.0 | | |
| EMS BAND 5 | 143,263 | | 0.0 | 0.0 | | |
| EXCISE TAX EX 3 | 59,688 | | 0.2 | 0.1 | 0.3 | 0.2 |
| MGMT ANALYST4 | 70,956 | | 0.2 | 0.1 | 0.1 | |
| 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 | | 0.0 | 0.0 | | |
| TAX POLICY SP 4 | 88,644 | | 0.0 | 0.0 | | |
| WMS BAND 3 | 104,295 | | 0.0 | 0.0 | | |
| **Total FTEs** | | | 0.7 | 0.4 | 0.3 | 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

*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