Multiple Agency Fiscal Note Summary

Bill Number: 1473 HB	**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	(2,500,000)	(2,500,000)	(2,500,000)	(7,190,000)	(7,190,000)	(7,200,000)	(8,880,000)	(8,880,000)	(8,900,000)
Total $	**(2,500,000)**	**(2,500,000)**	**(2,500,000)**	**(7,190,000)**	**(7,190,000)**	**(7,200,000)**	**(8,880,000)**	**(8,880,000)**	**(8,900,000)**

Agency Name	2021-23		2023-25		2025-27	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	Fiscal note not available					
Local Gov. Total						

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	.7	295,100	295,100	295,100	.2	49,700	49,700	49,700	.0	0	0	0
Total $	**0.8**	**311,900**	**311,900**	**311,900**	**0.2**	**58,100**	**58,100**	**58,100**	**0.0**	**8,400**	**8,400**	**8,400**

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Fiscal note not available								
Local Gov. Total									

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**

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Breakout

NONE

Does not include local government fiscal note.

Prepared by: Cheri Keller, OFM	**Phone:** (360) 584-2207	**Date Published:** Preliminary 1/30/2022

Individual State Agency Fiscal Note

Bill Number: 1473 HB	Title: Data centers/tax preference	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.

X 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.

The bill creates a new sales and use tax preference for eligible investments in data center equipment and eligible power infrastructure in counties that meet certain population criteria.

Section 1 states legislative intent, noting that under current law, data center incentives are restricted to rural counties. According to the statement, the sales tax for data centers serving urban counties can add to the total cost of ownership, adding these data centers are lost to other states, particularly Oregon.

TAX PERFORMANCE STATEMENT DETAILS

Section 2 is the tax preference performance statement that categorizes the preference as one intended to:
• 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).

The Legislature's specific public policy objective is to improve industry competitiveness and to increase, create, or retain jobs in computer data centers in counties with a population between 900 thousand and 1 million, thereby increasing family wage jobs.

The Legislature intends to provide a sales and use tax (SUT) exemption on:
• Eligible server equipment and power infrastructure installed in eligible computer data centers.
• Charges made for labor and services for installing eligible server equipment.
• Charges made for construction, installation, repair, alteration, or improvement of eligible power infrastructure.

It intends to provide the exemption to increase investment in data center construction, leasing, and other investment throughout such counties, thereby growing employment in the technology industry while adding real and personal property to state and local property tax rolls, thereby increasing the county tax base.

The Legislature intends to extend the tax preference and expand it to all of Washington if a review finds the county tax base increased as a result of the construction, leasing, and other investment of computer data centers eligible for the tax preferences.

To obtain the data to perform the review JLARC may refer to county property tax assessment data and annual tax performance report data from the Department of Revenue (DOR).

SALES AND USE TAX EXEMPTIONS

Sections 3 and 4 Create new sales and use tax exemptions under chapters 82.08 and 82.12 RCW for :
• Sales to qualifying businesses and tenants of eligible server equipment and for labor and services to install such equipment
• Sales to qualifying businesses and tenants of eligible power infrastructure, including charges to construct, install, repair, alter, or improve the power infrastructure at an eligible computer data center.

No new exemption certificates may be issued on or after July 1, 2027. The sales tax exemptions provided in the bill expire July 1, 2037, although the section providing them expires July 1, 2031. The use tax exemption expires January 1, 2027.

Qualifying businesses must:
• Be located in a county with a population between 900,000 and 1 million.
• Apply to DOR for an exemption certificate.

• Demonstrate that they have a minimum of 1.5 megawatts of available power when they apply to DOR. Qualifying tenants must contract for a minimum electrical capacity of 150 kilowatts.

Exemptions are limited to two qualifying business or tenant applications in the first year, and one each year in years three through six (six total).

Within six years of receiving the exemption certificate, the business or tenant must meet employment targets by demonstrating an increase in family-wage employment positions. Criteria for determining the number of family wage employment positions is detailed in the bill. Family wage employment is defined as new, permanent, full-time positions at the data center receiving a wage at least 125% of the per-capita personal income of the county in which the data center is located. Beneficiaries must repay exempted taxes if employment targets are not met.

Qualifying businesses or tenants claiming the exemption must complete an annual tax performance report as required under RCW 82.32.534.

Section 5: A new section in ch. 82.08 RCW is added to require that for qualifying businesses or tenants to receive the sales and use tax exemptions created in the bill, they must develop the computer data center in a way that includes community workforce agreements or project labor agreements and the payment of area standard prevailing wages and apprenticeship utilization requirements.

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 and other appropriate agencies immediately after passage of the bill to ensure project contacts are established and any other necessary data 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: 1473 HB	**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		(2,500,000)	(2,500,000)	(7,190,000)	(8,880,000)
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax				(10,000)	(20,000)
Total $		(2,500,000)	(2,500,000)	(7,200,000)	(8,900,000)

Estimated Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.4	1.0	0.7	0.2	
Account					
GF-STATE-State 001-1	113,600	181,500	295,100	49,700	
Total $	113,600	181,500	295,100	49,700	

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:

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).

X 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

Request # 1473-1-1

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 1473, 2022 Legislative Session.

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

PROPOSAL:
This bill creates a new 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.

Qualifying businesses or tenants must certify to the Department the data center receiving the exemption is developed in a way that meets community workforce agreements or project labor agreements.

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.

The retail sales tax exemption expires July 1, 2037, however the entire section expires July 1, 2031 and ends the exemption 6 years earlier than expected.

Use tax exemption applies to those who qualified under the retail sales tax section. The use tax exemption expires July 1, 2027.

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:
- This fiscal note is calculated to intent due to drafting errors. An amended fiscal note will be prepared to reflect the actual language of the bill if the bill is not amended once referred out of committee.
- As written, Section 3 in the bill allows exemptions for original server equipment but not replacement servers for qualifying businesses. Within the same section, the bill does not allow exemptions for original and replacement servers for tenants. We assume the intent is to allow original and replacement server exemptions for qualifying businesses and tenants.
- 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.
- The exemption is limited to data centers located in Pierce County.
- To estimate the local government impacts, this estimate uses the Pierce County average local tax rate for Fiscal Year 2021 of 3.289 percent.
- 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 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 infrastructures 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.
- Revenues as estimated assume passage of the proposal by March 10, 2022, allowing a full 90 days to implement.

DATA SOURCES:

- Department of Revenue: Annual tax performance reports, data center applications and buyers addendums.
- Kendall, B. and Smith, J. (2019, March 21) "Washington must compete for more data center investments." Puget Sound Business Journal. https://www.bizjournals.com/seattle/news/2019/03/21/opinion-washington-must-compete-for-moredata.html
- Centeris Resources, http://centeris.com/resources; Data center located in Pierce County

REVENUE ESTIMATES:
This bill decreases state revenues by an estimated $2.5 million in the 10 months of impacted collections in Fiscal Year 2023, and by $3.0 million in Fiscal Year 2024, the first full year of impacted collections.

This bill also decreases local revenues by an estimated $1.3 million in the 10 months of impacted collections in Fiscal Year 2023, and by $1.5 in Fiscal Year 2024, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000):

FY 2022 -	$ 0
FY 2023 -	($ 2,500)
FY 2024 -	($ 3,000)
FY 2025 -	($ 4,200)
FY 2026 -	($ 4,200)
FY 2027 -	($ 4,700)

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

FY 2022 -	$ 0
FY 2023 -	($ 1,300)
FY 2024 -	($ 1,500)
FY 2025 -	($ 2,100)
FY 2026 -	($ 2,100)
FY 2027 -	($ 2,400)

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 6 taxpayers.

FIRST YEAR COSTS:
The Department will incur total costs of $113,600 in Fiscal Year 2022. These costs include :

Labor Costs – Time and effort equates to 0.4 FTEs.
- Set up, program, and test computer system changes.
- Create a Special Notice and identify publications and information that need to be updated.
- 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.

Object Costs - $66,000.

- Contract computer system programming.

SECOND YEAR COSTS:
The Department will incur total costs of $181,500 in Fiscal Year 2023. These costs include :

Labor Costs - Time and effort equates to 0.98 FTEs
- Amend three excise tax advisories (ETA).
- 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 - $66,000.
- Contract computer system programming.

ONGOING COSTS:
Ongoing costs for the 2023-2025 Biennium equal $49,700 and include similar activities described in the second year costs. Time and effort equates to 0.2 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	0.4	1.0	0.7	0.2	
A-Salaries and Wages	29,200	72,700	101,900	32,900	
B-Employee Benefits	10,500	26,200	36,700	11,900	
C-Professional Service Contracts	66,000	66,000	132,000		
E-Goods and Other Services	5,100	11,700	16,800	4,400	
J-Capital Outlays	2,800	4,900	7,700	500	
Total $	$113,600	$181,500	$295,100	$49,700	

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	0.1	0.1	0.1		
IT SYS ADM-JOURNEY	89,916	0.1	0.1	0.1		
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	0.2	0.2	
TAX POLICY SP 4	88,644		0.0	0.0		
WMS BAND 3	104,295		0.0	0.0		
Total FTEs		0.4	1.0	0.7	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