

Colorado Legislative Council Staff Fiscal Note

FINAL
FISCAL NOTE

Drafting Number: LLS 14-1016	Date: August 12, 2014
Prime Sponsor(s): Rep. Pabon; DelGrosso Sen. Scheffel	Bill Status: Postponed Indefinitely
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SHORT TITLE: SALES & USE TAX EXEMPTION FOR CERTAIN IT EQUIPMENT

Fiscal Impact Summary*	FY 2015-2016	FY 2016-17
State Revenue		(\$1.5 million)
General Fund		(\$1.5 million)
State Expenditures	\$77,003	\$136,710
General Fund	71,307	124,543
Centrally Appropriated Costs**	5,696	12,167
FTE Position Change	0.5 FTE	1.3 FTE
Appropriation Required: None needed in FY 2014-15.		

* This summary shows changes from current law under the bill for each fiscal year. Transfers and diversions result in no net change to state revenue. Parentheses indicate a decrease in funds.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

This bill creates a refund for sales and use taxes on information technology equipment used in qualified data centers beginning January 1, 2016. The refund would apply to the purchase of computers, data storage equipment, cooling systems, power infrastructure, and racking systems for twenty years following the date of the first investment in the data center. The Department of Revenue is required to ensure that the total amount refunded to all qualified taxpayers does not exceed \$1.5 million per year. The refund is repealed January 1, 2026.

Qualified data centers must be used primarily to house information technology equipment and be at least 25,000 square feet in size. To qualify for the refund, new data centers must invest at least \$30 million over five years, while new refurbished data centers must invest at least \$15 million over two years. Existing data centers may qualify from investments made beginning on January 1 2010, and existing refurbished data centers may qualify from investments made beginning on January 1, 2013. The investment amounts include the total construction costs of the data center, including the building and structure, cooling equipment, and information technology equipment. Tenants of qualified data centers also qualify for the refund.

Data centers and tenants must be certified by the Colorado Office of Economic Development and International Trade (OEDIT) before they can receive a refund. Information technology equipment must be used in a qualified data center for at least one year before being eligible for a refund.

State Revenue

This bill would reduce sales and use tax collections by \$1.5 million in FY 2016-17 and \$1.5 million in FY 2017-18.

Assumptions. Georgia has an uncapped sales and use tax exemption for information technology equipment with similar criteria. Based on the most recent tax expenditure study prepared by Georgia State University, their sales tax exemption for information technology equipment reduces Georgia sales tax collections by \$25 million per year.

Adjusting for the differences in tax rates and the size of the information industry in each state, the sales tax refund created in HB 14-1389 would reduce Colorado sales tax collections by about \$14.7 million per year if it were not capped. This revenue reduction is based on \$508 million in information technology equipment being eligible for a refund each year. Because of the cap, the bill will reduce General Fund revenue by \$1.5 million per year.

Applicants for the refund are required to apply for the refund between January and April of the year after the sales taxes are paid and the refund is available for purchases made beginning January 1, 2016. The first refunds will be issued January 1, 2017, reducing sales and use tax revenue \$1.5 million in FY 2016-17.

State Expenditures

This bill will require \$77,003 to administer in FY 2015-16 and \$136,710 in FY 2016-17.

Table 1. Expenditures Under HB 14-1389		
Cost Components	FY 2015-16	FY 2016-17
Personal Services	\$33,480	\$66,553
FTE	0.5	1.3
Department of Revenue		0.8
OEDIT	0.5	0.5
Operating Expenses	\$37,827	\$57,990
Department of Revenue		\$32,515
OEDIT	\$37,827	\$25,475
Centrally Appropriated Costs*	\$5,696	\$12,167
TOTAL	\$77,003	\$136,710

* Centrally appropriated costs are not included in the bill's appropriation.

Assumptions. The Department of Revenue will need to modify the state's tax administration software to provide for a sales tax refund and allocate the refund for sales to qualified data centers. This will require 145 hours of testing and development from the software vendor, costing \$31,755 in FY 2016-17. The Department expects about 40 data centers and up to 1,000 tenants of data centers to apply for the refund starting January 1, 2017 and will require 0.8 FTE to process those refunds. This will require \$33,073 in personal services and \$760 in operating expenses.

The bill requires the Office of Economic Development and International Trade to certify that a data center meets the requirements for the refund and notify the Department of Revenue and the data center that it has qualified. Prior to finalizing the certification, the Office shall consult with the Economic Development Commission. Starting in November 2017, the Office of Economic Development will provide the General Assembly with estimates of the economic benefits of the sales and use tax exemption and a recommendation on if the refund cap is high enough. The Office of Economic Development and International Trade will hire an addition 0.5 FTE to administer the certification process, which will require \$33,480 in personal services each year and \$37,827 in operating expenses in FY 2015-16 and \$475 in FY 2016-17. In addition, the Office of Economic Development and International Trade will contract with an economic consultant to prepare the report to the General Assembly, which is expected to cost \$25,000 per year.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB 14-1389*		
Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$3,369	\$6,979
Supplemental Employee Retirement Payments	2,327	5,188
TOTAL	\$5,696	\$12,167

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

This bill creates a refund for state sales and use taxes paid on qualifying information technology equipment. This does not impact local government sales and use taxes.

Effective Date

The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on May 6, 2014.

State Appropriations

In FY 2014-15 no appropriation is needed.

State and Local Government Contacts

Revenue OEDIT Municipalities Counties RTD