

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated April 30, 2014)

Drafting Number: LLS 14-1016	Date: May 1, 2014
Prime Sponsor(s): Rep. Pabon; DelGrosso Sen. Scheffel	Bill Status: House Appropriations Fiscal Analyst: Larson Silbaugh (303-866-4720)

SHORT TITLE: SALES & USE TAX EXEMPTION FOR CERTAIN IT EQUIPMENT

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		<u>(\$1.5 million)</u>
General Fund		(1.5 million)
State Expenditures	<u>\$96,301</u>	<u>\$39,651</u>
General Fund	90,877	33,955
Centrally Appropriated Costs**	5,424	5,696
FTE Position Change	0.5 FTE	0.5 FTE
Appropriation Required: \$71,307 - OEDIT (FY 2014-15), \$19,570 - DOR (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

As amended by the House Finance Committee, this bill creates a sales and use tax exemption for information technology equipment used in qualified data centers. The sales tax exemption will be available starting July 1, 2015, and would apply to computers, data storage equipment, cooling systems, power infrastructure, and racking systems. 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 exemption, new data centers must invest at least \$30 million over five years and refurbished data centers must invest at least \$15 million over two years. The investment amounts are for the total construction costs of the data center, including the building and structure, cooling equipment, and information technology equipment. Data centers must be certified by the Colorado Office of Economic Development and International Trade (OEDIT) before they can receive the exemption.

Existing data centers may qualify for the exemption from investments made between June 30, 2010, and July 1, 2015, and refurbished data centers would qualify because of investments made between June 30, 2013, and July 1, 2015. The OEDIT may certify these existing facilities, which would exempt the purchase of information technology equipment after July 1, 2015, from sales and use taxes. However, these facilities would not qualify for a refund for taxes paid prior to July 1, 2015.

As amended in the House Finance Committee, there is a \$1.5 million cap on the total amount of the sales tax exemption and the exemption is repealed July 1, 2025. OEDIT will determine a method to prioritize the exemptions that are claimed.

State Revenue

This bill would reduce sales and use tax collections by \$1.5 million in FY 2015-16 and \$1.5 million in FY 2016-17.

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 exemption created in HB 14-1389 would reduce Colorado sales tax collections by about \$14.7 million per year if the exemption were not capped. This revenue reduction is based on \$508 million in information technology equipment being exempt from sales taxes per year. Because of the cap, the bill will reduce General Fund revenue by \$1.5 million per year.

This revenue impact is based on the sales of data centers being certified by OEDIT prior to July 1, 2015. The timing for when data centers are certified by OEDIT will impact the timing of the General Fund revenue impact.

State Expenditures

This bill will require \$96,301 to administer in FY 2014-15 and \$33,955 in FY 2015-16.

Table 1. Expenditures Under HB 14-1389		
Cost Components	FY 2014-15	FY 2015-16
Personal Services	\$33,480	\$33,480
FTE	0.5	0.5
Operating Expenses	\$57,397	\$475
Department of Revenue	\$19,570	\$0
OEDIT	\$37,827	\$475
Centrally Appropriated Costs*	\$5,424	\$5,696
TOTAL	\$96,301	\$33,955

* 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 accept a sales tax exemption for qualified data centers. This will require 95 hours of testing and development from the software vendor, costing \$19,570 in FY 2014-15.

The bill requires the Office of Economic Development and International Trade to certify that a data center meets the requirements for the exemption and notify the Department of Revenue and the data center that it has qualified for the exemption. Prior to finalizing the certification, the Office shall consult with the Economic Development Commission. Every six years, the Office of Economic Development will provide the General Assembly with estimates of the economic benefits of the sales and use tax exemption. 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 2014-15 and \$475 in FY 2015-16.

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.

Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$3,369	\$3,369
Supplemental Employee Retirement Payments	2,055	2,327
TOTAL	\$5,424	\$5,696

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

Local Government Impact

Because this sales and use tax exemption for local governments is voluntary, local governments will only be affected if they choose to adopt the sale and use tax exemption.

Effective Date

The bill takes effect August 6, 2014, if the General Assembly adjourns on May 7, 2014, as scheduled, and no referendum petition is filed. The exemption applies to information technology equipment purchased on or after July 1, 2015.

State Appropriations

For FY 2014-15, the Office of Economic Development and International Trade requires a General Fund appropriation of \$71,307 and 0.5 FTE. The Department of Revenue requires a General Fund appropriation of \$19,570 in FY 2014-15.

State and Local Government Contacts

Revenue OEDIT Municipalities Counties RTD