



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 952

PRINTERS NO. 1310

PRIME SPONSOR: Oberlander

### COST / (SAVINGS)

FUND	FY 2020/21	FY 2021/22
General Fund	\$0	See fiscal impact
Local Sales Tax Funds	\$0	See fiscal impact

**SUMMARY:** House Bill 952, Printer's Number 1310, amends the Tax Reform Code providing for a sales and use tax (SUT) exemption program for computer data centers, further providing for definitions and review of application, imposing duties on the Department of Revenue (department), and making editorial changes.

**ANALYSIS:** This legislation amends Article XXIX-D of the Tax Reform Code converting the current Computer Data Center Equipment Incentive Program from a sales and use tax refund program to a sales and use tax exemption.

Under current law, a certified computer data center may apply, on or before July 30 of each year, for a refund of sales and use taxes paid on computer data center equipment purchased for installation in a certified computer data center if purchased by an owner, operator or a qualified tenant. The total amount of tax refunds approved by the department shall not exceed \$7 million in any fiscal year. If the total amount of tax refunds approved exceeds the annual cap, the department shall allocate the amount of refund per applicant on a pro rata basis. House Bill 952 amends the current SUT refund program as follows: (1) the department may not certify any computer data center for the SUT refund program after December 31, 2021, and (2) the department may not issue a tax refund for computer data center equipment purchased after December 31, 2021. Changes to the SUT tax refund program will allow certified computer data centers to apply on or before July 30, 2022, for a refund of taxes paid on purchases through December 31, 2021.

If a computer data center is certified under the existing SUT refund program, such certification shall remain valid and in effect for the new SUT exemption program for the remainder of the qualification period of the computer data center.

Additionally, House Bill 952 adds Subarticle C (Sales and Use Tax Exemption Program) providing that beginning January 1, 2022, the sales and use tax (both State and Local) shall not be imposed on the sale of computer data center equipment purchased for installation in a certified computer data center if purchased by an owner, operator or a qualified tenant.

To be considered for certification under the new SUT exemption program, an owner or operator of a computer data center shall submit an application to the department . The department shall begin accepting applications no later than 30 days after the effective date. Within 60 days after receiving a complete and correct application, the department shall review and issue a written certification or denial, including reasons for the denial. Failure of the department to issue a decision within 60 days shall constitute approval and certification of the computer data center.

Eligibility requirements for certification are as follows:

1. if located in a county with a population of 250,000 or fewer individuals, on or before the fourth anniversary of certification, the computer data center must have a minimum of \$75 million in new investment and create at least 25 new jobs;
2. if located in a county with a population greater than 250,000 individuals, on or before the fourth anniversary of certification, the computer data center must have a minimum of \$100 million in new investment and create at least 45 new jobs;
3. the computer data center must pay annual compensation of at least \$1 million to employees located on site for each year of the certification after the fourth-year anniversary.

The act shall take effect immediately.

**FISCAL IMPACT:** According to the Department of Revenue, enactment of this legislation is estimated to reduce General Fund revenue collections by \$15.7 million in fiscal year 2021-22. A reduction in local sales and use tax collections may be realized dependent upon the location of the computer data center and the situs of the purchases of computer data center equipment. Finally, the legislation provides that the SUT tax refund program, which has a \$7 million annual cap, will no longer be available for purchases of computer data equipment after December 31, 2021, and such savings in SUT tax refunds will partially offset the costs of the new SUT exemption.

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**DATE:** June 8, 2021

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*