



Fiscal Note

Legislative Council Staff

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HB 26-1030: DATA CENTER & UTILITY MODERNIZATION

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Summary Information

Overview. The bill creates a state sales tax exemption for data centers that meet certain requirements and establishes a new authority to administer the tax exemption certificates and ensure compliance with requirements for these data centers.

Types of impacts. The bill is projected to affect the following areas beginning in FY 2026-27 and on an ongoing basis:

- State Expenditures
- State Revenue
- TABOR Refunds
- Local Government

Appropriations. For FY 2026-27, the bill requires an appropriation of \$599,813 to multiple state agencies. See the State Appropriations section for more detail.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	-\$3,788,000	\$77,480,000	-\$58,309,000
State Expenditures	\$700,928	\$599,075	\$538,421
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$77,480,000	not estimated
Change in State FTE	4.0 FTE	4.0 FTE	3.5 FTE

Table 1A
State Revenue

Fund Source	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
General Fund – Sales and Use Tax Exemption	-\$4,400,000	-\$29,000,000	-\$59,100,000
General Fund – Triggered Tax Credits	\$0	\$105,789,000	not estimated
Cash Funds	\$612,000	\$691,000	\$791,000
Total Revenue	-\$3,788,000	\$77,480,000	-\$58,309,000

Table 1B
State Expenditures

Fund Source	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
General Fund	\$214,732	\$133,879	\$97,331
Cash Funds	\$385,082	\$364,082	\$364,082
Federal Funds	\$0	\$0	\$0
Centrally Appropriated	\$101,115	\$101,115	\$77,008
Total Expenditures	\$700,929	\$599,076	\$538,421
Total FTE	4.0 FTE	4.0 FTE	3.5 FTE

Summary of Legislation

The bill creates the Colorado Data Center Development Authority ("the authority") in the Office of Economic Development and International Trade (OEDIT). The bill specifies the membership, appointment authority, and length of term for each member. Authority members serve without compensation but can be reimbursed for expenses incurred. The authority administers the Data Center Development and Incentive Program, its associated cash fund, and may issue sales tax exemption certificates to qualifying data centers. OEDIT must provide staffing, administrative and operational support to the authority.

Sales and Use Tax Exemption

Beginning in tax year 2027, the bill creates a state sales and use tax exemption, administered by the authority, for certified data center projects. The exemption is equal to 100 percent of expenses related to information technology infrastructure, data center infrastructure, mechanical systems, and other qualified purchases for data center projects with a certification. The exemption for certified data center projects is valid for 20 years. Data centers may apply for an extension of the sales tax exemption beyond 20 years if they meet certain conditions. Sales tax exemption certificates are nontransferable. The authority must inform the Department of

Revenue of the names of the data center approved for the sales tax exemption and include other relevant information. The State Auditor must evaluate the effectiveness of the Sales Tax Exemptions and the authority must provide the Auditor with any information requested.

Cash Fund and Fee Collection

The authority may collect the fees from data center operators for administrative costs. These fees are deposited into the Data Center Development and Incentive Program Cash Fund, which is continuously appropriated. Application fees cannot exceed \$30,000. If approved, a fee for a sales tax exemption certification cannot exceed \$20,000.

Certification Application

To be eligible for the sales and use tax exemption, data center operators must submit an application to OEDIT for project certification. Before applying, an applicant must consult with the electric utility that will provide electricity for the data center regarding feasibility and electrical infrastructure. Applicants are responsible for all utility planning costs. Applicants for certification must, among other requirements, commit to:

- investing at least \$250 million in data center qualified purchases within five years of receiving certification;
- creating jobs with an average compensation of at least 110 percent of the county average;
- working to ensure that the data center will not cause unreasonable cost impacts to other ratepayers in the area;
- implementing water stewardship measures;
- obtaining other energy management and environmental certifications from federal and private entities;
- consulting with the Department of Natural Resources;
- ensuring backup power generators for the data center meet Environmental Protection Agency Standards or use a low-emission power source;
- breaking ground on the data center within 2 years of obtaining certification;
- complying with prevailing wage requirements and craft labor requirements for energy sector projects in state law¹ and complying with federal and state workplace safety laws for construction; and
- satisfying additional post-certification requirements specified below.

¹ Section 24-92-201 through Section 24-92-307, C.R.S.

The application must include information about the qualifications of the data center operator, timelines for qualified purchases of at least \$250 million, a job creation plan and an environmental sustainability plan, among other requirements.

Application Review

The bill specifies timelines for the authority to review applications. When a complete application is received, the authority must inform the impacted electric utility. The electric utility must determine that the data center will not cause unreasonable cost impacts to other ratepayers. If the data center will use water for its cooling system, the authority must notify the water utility company, who must review the applicant's water management plan and determine that the data center's water usage will not negatively impact water customers. The bill also specifies criteria for the authority to approve or reject applications. If an application is rejected but meets certain criteria, the applicant may remediate concerns of the authority and resubmit.

Post-Certification Requirements

Upon obtaining a sales tax exemption certificate, the data center must complete an annual report detailing their progress towards meeting the commitments required above. This report must include the total amount of the state sales and use tax exemption claimed each year and other information requested by the authority. The authority may revoke a sales tax exemption certificate under certain conditions. Changes to electricity or water rates and changes to federal, state, or local regulations are not grounds for revoking a certificate.

Local Government Participation

The bill does not restrict a local government from regulating data centers, including through taxation or land use and environmental regulations. Local governments are not required to participate in the Data Center Development and Incentive Program.

Targeted Resource Acquisition

The bill allows utilities regulated by the Public Utility Commission's resource planning authority (PUC) to submit a targeted resource acquisition application describing how they will meet energy and capacity from emerging large load customers, such as a data center. Utilities may issue a competitive solicitation to identify potential resources to serve the emerging load and may propose alternative funding sources to include in the application, among other provisions. Utilities must include certain information in their application to the PUC.

For targeted resource acquisition applications submitted before December 31, 2029, the applicant must target a 3-to-1 ratio of non-carbon dioxide (CO₂) emitting power sources to CO₂ emitting sources. The bill specifies certain criteria for these applications and ratios. For targeted resource acquisition applications submitted in 2040 or after, all proposed energy resources must come from renewable energy.

Utilities may propose that large load customers be held entirely responsible for costs to serve their own electricity needs, or that these large load customers be partially reimbursed for their costs. Utilities may recover costs associated with infrastructure development for large-load customers through adjustment clauses when billing large-load customers.

Finally, utilities may propose the creation of a “Advanced Carbon-Free Technology Fund”, which can accept voluntary contributions from large load customers. The bill specifies acceptable uses of these voluntary contributions.

Background and Assumptions

Comparable Programs

At least 37 states offer some type of tax incentives for data centers. In 2019, Illinois enacted a sales and use tax exemption for data centers similar to the exemption in this bill. To qualify for the Illinois exemption, a data center must invest at least \$250 million within 60 months.

In 2020, six data centers newly qualified for the Illinois exemption, committing a total of \$1.7 billion. By 2023, all six met or exceeded their commitments, reporting a combined investment of about \$3 billion, with an average investment of \$500 million each. In 2021, seven more data centers qualified, and by 2023, all surpassed their commitments with a total reported investment of just over \$7 billion.

Program Utilization

Beginning in tax year 2027, the fiscal note assumes that at least three data center projects will qualify and receive certification. These projects are expected to generate \$1.5 billion in capital investments, with 20 percent of sales and use tax exemptions claimed in the first year and 80 percent in the second year. The fiscal note also anticipates that five additional data centers will qualify and receive certification in 2028, with the number of new projects steadily increasing each year thereafter, as shown in Table 2.

Table 2
Assumed Tax Program Utilization

Tax Year	New Certifications	New Data Center Investments
2027	3	\$1.5 billion
2028	5	\$2.5 billion
2029	7	\$3.5 billion

It is important to note there is significant uncertainty regarding the number of data centers that will apply for the state sales and use exemption under the bill and the amount of investment that will qualify for the exemption. To the extent that actual investments vary from the assumptions in this analysis, state impacts may increase or decrease proportionally.

Offsetting Impacts

The bill reduces revenue by exempting data centers from sales and use tax that would otherwise be collected by the state. This reduction will occur both due to new data centers being built and from motivating businesses to build larger data centers than would have otherwise been built due to tax savings or to meet the exemption thresholds. The fiscal note estimate is based on businesses investing in larger data centers than they otherwise would have. However, the note does not estimate a revenue impact for sales and use tax exemptions for the purchase and use of property that would not have otherwise been purchased or used.

State Revenue

The bill reduces General Fund revenue by \$4.4 million in FY 2026-27 (a half-year impact), increases revenue by \$76.8 million in FY 2026-27 (due to changes to triggered tax credits under current law), and reduces revenue by \$59.1 million in FY 2027-28, with larger reductions in subsequent years. These out-year impacts may also be offset by changes to triggered tax credits, but these potential impacts have not been estimated and will depend on various factors related to overall state revenue. Revenue impacts are summarized in Table 3 below.

The number of data centers qualifying for the incentives in the bill is expected to increase gradually in future years, causing a larger impact for the bill over time. In addition, use of the exemption for ongoing maintenance costs, part replacements, and upgrades are expected to compound as more data centers qualify. An estimate of how many data centers will qualify for extended benefits is not provided because these impacts would occur at least 20 years in the future. However, it is expected the majority of certified data centers will qualify.

This bill will reduce General Fund revenue from sales and use taxes, as shown in Table 3A. In years when it reduces the availability of triggered income tax credits, it will increase income tax revenue. The bill also increases cash fund revenue to the Data Center Development and Incentive Cash Fund by the amounts listed in table 3B and increase cash fund revenue to the Fixed Utility Fund within the PUC as detailed below.

Table 3
Change in State Revenue

Source	FY 2026-27	FY 2027-28	FY 2028-29
Sale Tax Revenue (General Fund)	-\$4,400,000	-\$29,000,000	-\$59,100,000
Triggered Income Tax Credits (General Fund)	\$0	\$105,579,000	not estimated
Authority Fees (Data Center Development CF)	\$150,000	\$250,000	\$350,000
PUC Fees (Fixed Utility Fund)	\$462,000	\$441,000	\$441,000
Total	-\$3,788,000	\$77,480,000	-\$58,309,000

Sales and Use Tax

The bill decreases General Fund revenue from the sales and use tax exemption, as shown in Table 3A and described below. The number of data centers qualifying for the incentive in the bill is expected to increase gradually over the years, with corresponding revenue reductions.

Table 3A
Tax Program Revenue
General Fund

Source	FY 2026-27	FY 2027-28	FY 2028-29
Sales and Use Tax Exemption	-\$4.4 million	-\$29.0 million	-\$59.1 million
Total Revenue	-\$4.4 million	-\$29.0 million	-\$59.1 million

Based on the Assumptions section, the fiscal note estimates that sales and use tax exemption claims will reduce General Fund revenue by \$4.4 million in FY 2026-27, representing an accrued half-year impact for tax year 2027, \$29.0 million in FY 2027-28, and \$59.1 million in FY 2028-29 with larger impacts in subsequent years. In addition, the use of the exemption for purchases related to ongoing maintenance costs and upgrades is expected to compound as more data centers qualify for exemption.

Triggered Tax Credits

The bill increases revenue by \$105.8 million in FY 2027-28 by causing certain current law tax credits whose availability or amounts are dependent on state revenue conditions, known as triggered tax credits, to be available at a lower level than expected under current law in tax year 2028. Because the bill reduces revenue subject to TABOR, the bill changes the adjustment factor used to determine the amounts of the family affordability tax credit and the expanded earned income tax credit. As a result, these credits are expected to be reduced relative to the December 2025 forecast. A forecast of the bill's impact on triggered tax credits is not available for FY 2028-29 or later fiscal years. For more information, see the [LCS memorandum on Treatment of Tax Credit Triggers in Fiscal Notes](#).

Fee Impact on Data Center Operators and Regulated Utilities

Application and Certification Fee Revenue

The bill increases fee revenue to the newly created Data Center Development and Incentive Program Cash Fund by \$150,000 in FY 2026-27, by \$250,000 in FY 2027-28 and by \$350,000 in FY 2028-29 and ongoing from application and certification fees levied on data center operators, as shown in Table 3B below.

Table 3B
Application and Certification Fee Revenue
Data Center Development and Incentive Program Cash Fund

Source	FY 2026-27	FY 2027-28	FY 2028-29
Application Fee	\$90,000	\$150,000	\$210,000
Certification Fee	\$60,000	\$100,000	\$140,000
Total	\$150,000	\$250,000	\$350,000

These amounts assume 3 new data centers in FY 2026-27, 5 new data centers in FY 2027-28 and 7 new data centers in FY 2028-29, and assumes that the authority will charge the maximum allowable amount for all data center applications and certification fees. Actual revenue will vary depending on the number of applicants and actual fee amounts set by the authority.

Utility Fee Revenue

The bill increases state cash fund revenue to the Fixed Utility Fund (FUF) by about \$462,000 in FY 2026-27, and \$441,000 in FY 2027-28 and future years. Administrative costs incurred by the PUC are paid from the FUF, which receives an annual assessment on the state's regulated utilities. Whenever additional expenses are incurred against the fund, the assessment must be raised to increase revenue to cover these expenses. This revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures by about \$701,000 in FY 2026-27 and by about \$599,000 in FY 2027-28 and by about \$643,000 in FY 2028-29 and future years. These costs will be incurred in the Departments of Regulatory Agencies and Revenue, as well as the Office of Economic Development and International Trade (OEDIT), as shown in Table 4 and described in the sections below. Costs are paid from the General Fund, the Data Center Development and Incentive Program Cash Fund and the Fixed Utility Fund. The bill also minimally increases workload in the Colorado Energy Office, the Governor's Office of Boards and Commissions, the Department of Natural Resources, and the Office of the State Auditor.

Table 4
State Expenditures
All Departments

Department	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
Department of Revenue (General Fund)	\$38,788	\$8,702	\$8,702
Office of Economic Development (General Fund)	\$200,051	\$149,284	\$229,353
Public Utilities Commission (Cash Fund)	\$462,089	\$441,089	\$441,089
Total Costs	\$700,928	\$599,075	\$642,984

Department of Revenue

The bill increases expenditures in the Department of Revenue by about \$39,000 in FY 2026-27 and by \$8,700 in future years to update existing tax forms, test programming changes and evaluate the new sales tax exemption. These costs are paid from the General Fund and shown in Table 4A below.

Table 4A
State Expenditures
Department of Revenue

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
GenTax Programming	\$26,341	\$0	\$0
Office of Research and Analysis	\$9,044	\$8,702	\$8,702
User Acceptance Testing	\$3,403	\$0	\$0
Total Costs	\$38,788	\$8,702	\$8,702

Computer Programming and Testing

In the first year, workload in the DOR will increase to allow the GenTax software system to accept new sales tax exemption information, with costs totaling \$29,744 in FY 2026-27. This estimate includes programming costs from a contractor, systems support office validation, and user acceptance testing to ensure that programming changes function properly.

Data Reporting

Starting in FY 2026-27, workload in the Office of Research and Analysis withing the DOR will increase to collect and report data on the new tax, as required by the bill.

Office of Economic Development and International Trade

The bill increases expenditures in OEDIT by about \$200,000 in FY 2026-27, by about \$149,000 in FY 2027-28 and by about \$100,000 in FY 2028-29 and ongoing. OEDIT will support the work of the authority. While the bill specifies that OEDIT will complete this work within existing appropriations, the fiscal note estimates that General Fund expenditures that are required to implement the bill.

Table 4B
State Expenditures
Office of Economic Development and International Trade

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
Personal Services	\$103,283	\$103,283	\$51,641
Operating Expenses	\$1,280	\$1,280	\$640
Capital Outlay Costs	\$7,000	\$0	\$7,000
Software Licensing and Travel	\$64,381	\$20,614	\$29,348
Centrally Appropriated Costs	\$24,107	\$24,107	\$12,053
Total Costs	\$200,051	\$149,284	\$100,683
Total FTE	1.0 FTE	1.0 FTE	0.5 FTE

Staff

OEDIT will require 1.0 FTE Program Management from FY 2026-27 through FY 2027-28 to support the work of the authority. Starting in FY 2028-29, this position will reduce to 0.5 FTE. This position will review data center applications in consultation with the authority, collaborate with local governments, design program materials, and ensure compliance with the bill's requirements for data centers for the estimated number of applications detailed in the State Revenue section above. Standard Operating and Capital Outlay costs are included.

Software Licensing and Travel

OEDIT uses external software to manage its grant programs, and in-house developers to program data collection and reporting within this external software. Additionally, OEDIT anticipates travelling to new data centers throughout the state to ensure compliance with the bill's requirements. In total, these costs are estimated at \$64,381 in FY 2026-27, \$20,614 in FY 2027-28 and \$29,348 in FY 2028-29 and ongoing.

Public Utilities Commission

The bill increases expenditures to the PUC by about \$462,000 in FY 2026-27 and by about \$441,000 in FY 2027-28 and future years. Costs are paid from the Fixed Utility Fund and detailed in Table 4C below.

Table 4C
State Expenditures
Department of Regulatory Agencies – Public Utilities Commission

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
Personal Services	\$360,242	\$360,242	\$360,242
Operating Expenses	\$3,840	\$3,840	\$3,840
Capital Outlay Costs	\$21,000	\$0	\$0
Centrally Appropriated Costs	\$77,008	\$77,008	\$77,008
Total Costs	\$462,089	\$441,089	\$441,089
Total FTE	3.0 FTE	3.0 FTE	3.0 FTE

Staff

Beginning in FY 2026-27, the PUC requires 2.0 FTE Rate/Financial Analyst V and 1.0 FTE Progressional Engineer II to review and ensure compliance with the Targeted Resource Acquisition Applications submitted to the PUC by utility companies. These staff will review electric resource plans to ensure target ratios between non-renewable and renewable energy sources are being met, review rate impacts, support litigation, and review grid impacts based on the increased demand for electricity. Standard operating expenses and capital outlay costs are included.

Governor's Office of Boards and Commissions

Workload will minimally increase for the Governor's Office of Boards and Commissions to make the required appointment under the bill. This work can be accomplished within existing appropriations.

School Finance Impact

To the extent new and larger data center projects occur and increase the local share of total program spending, the state share of school finance will decrease. This impact has not been estimated. The state share of school finance can be paid from the General Fund, the State Education Fund, or the State Public School Fund.

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. These costs, which may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in the tables above.

Other Agency Impacts

The Department of Natural Resources will consult with data center operators regarding wildlife areas, urban interface, and water issues to ensure operators are compliant with the bill's requirements. This additional workload is expected to be absorbable with existing appropriations.

The Colorado Energy Office will have increased workload to be a member of the authority; this additional workload is expected to be minimal.

Finally, the Office of the State Auditor will receive information from the authority and other state agencies to evaluate the effectiveness of the sales tax exemption. This additional work can be absorbed within existing resources.

TABOR Refunds

The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by \$77.5 million in FY 2027-28. A forecast of state revenue subject to TABOR is not available beyond FY 2027-28. This estimate assumes the December 2025 LCS revenue forecast. Because TABOR refunds are paid from the General Fund, increased General Fund revenue will increase the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save, in FY 2027-28 and any future years when the state is over its revenue limit. The bill also increases cash fund revenue subject to TABOR, which will increase the amount of General Fund revenue required to be refunded to taxpayers, correspondingly decreasing the amount available for the General Fund.

Local Government

If new data centers are built or expanded due to the new tax incentive, the bill will conditionally increase property tax revenue for local taxing jurisdictions. Local tax revenue may be offset to the extent that local jurisdictions also provide tax incentives for these new data centers. For school districts, increased total program property tax revenue will result in a corresponding decrease in revenue from the state share of school finance.

The bill will also minimally increase workload for local governments and utilities to review data center projects and collaborate with the authority on infrastructure planning, environmental compliance, and technical assistance.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. The law applies to data centers built or purchasing or resources for data centers after the governor’s signature.

State Appropriations

For FY 2026-27, the bill requires the following appropriations:

- \$175,944 from the General Fund to the Office of Economic Development in the Governor’s Office, and 1.0 FTE;
- \$385,082 from the Fixed Utility Fund to the Public Utilities Commission in the Department of Regulatory Agencies and 3.0 FTE; and
- \$38,788 from the General Fund to the Department of Revenue.

State and Local Government Contacts

Colorado Energy Office
Counties
Governor's Office of Boards and
Commissions
Natural Resources

Office Of Economic Development
Regulatory Agencies
Revenue
State Auditor