



Fiscal Note

Legislative Council Staff

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SB 25-280: DATA CENTER DEVELOPMENT & GRID MODERNIZATION ACT

Prime Sponsors:

Sen. Hinrichsen; Lundeen
Rep. Brown; Valdez

Fiscal Analyst:

Brendan Fung, 303-866-4781
brendan.fung@coleg.gov

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Fiscal note status: This revised fiscal note reflects the introduced bill, as amended by the Senate Transportation and Energy Committee and includes new information from the Public Utilities Commission.

Summary Information

Overview. The bill creates incentives for data center development.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

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

Appropriations. For FY 2025-26, the bill requires an appropriation of \$736,889 to multiple state agencies. See State Appropriations section.

**Table 1
State Fiscal Impacts**

Type of Impact ¹	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2026-27
State Revenue	-\$2,078,003	-\$16,755,965	-\$38,067,690
State Expenditures	\$833,473	\$755,077	\$892,161
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	-\$2,078,003	-\$16,755,965	not estimated
Change in State FTE	4.6 FTE	5.1 FTE	5.6 FTE

¹ Fund sources for these impacts are shown in the tables below

**Table 1A
 State Revenue**

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2026-27
General Fund	-\$2,610,000	-\$17,400,000	-\$38,802,000
Cash Funds	\$531,997	\$644,035	\$734,310
Total Revenue	-\$2,078,003	-\$16,755,965	-\$38,067,690

**Table 1B
 State Expenditures**

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
General Fund	\$271,156	\$104,045	\$150,854
Cash Funds	\$465,733	\$554,448	\$644,723
Federal Funds	\$0	\$0	\$0
Centrally Appropriated	\$96,584	\$96,584	\$96,584
Total Expenditures	\$833,473	\$755,077	\$892,161
Total FTE	4.6 FTE	5.1 FTE	5.6 FTE

Summary of Legislation

The bill creates the Data Center Development Incentive Program in the Office of Economic Development and International Trade (OEDIT) to facilitate efficient data center development, in collaboration with the Public Utilities Commission (PUC), the Colorado Energy Office (CEO), and the Department of Natural Resources (DNR).

Sales and Use Tax Exemption

Beginning in tax year 2026, the bill creates a state sales and use tax exemption for information technology infrastructure, data center infrastructure, mechanical systems, and other qualified purchases for data center projects with a certification. The exemption is equal to 100 percent of expenses, and is applicable for 20 years from the date that the certification is approved. The tax exemption is nontransferable.

Certification Application

To become eligible for the sales and use exemption, data center operators must submit an application to OEDIT for certification for an applicable project. Applicants for certification must, among other requirements, demonstrate a commitment to:

- invest at least \$250 million in data center facility construction and equipment within five years of receiving certification;

- create 25 full-time jobs with an average compensation of at least 110 percent of the county average;
- maintain reasonable costs to other utility ratepayers;
- obtain additional certifications;
- implement sustainability plans and water stewardship measures; and
- break ground within five years of certification.

An applicant must also conduct a preliminary consultation with the utility that will provide electricity for the data center and include a written feasibility assessment with the application. The applicant is responsible for paying the utility for all costs incurred in the consultation and assessment.

OEDIT must begin processing applications for certification by November 1, 2025, and is authorized to reject, approve, and revoke applications under various circumstances.

Reporting

Data center operators who receive certification must submit an annual compliance report to OEDIT and include certain information such as the total amount of sales and use tax exemptions claimed each year.

Utility Benefits

Certified data center projects are eligible to receive economic development utility benefits for the 20-year tax exemption period. Operators may apply for a 10-year benefit extension if at least \$5 million in additional grid enhancement investments were made, at least 10 additional jobs were added, and other commitments were met during the initial 20-year period.

Program Administration

OEDIT must establish policies, qualification criteria, review applications, monitor program recipients, and administer the programs in collaboration with various state and independent agencies. In 2031, the office must perform an evaluation to determine the effectiveness of the program.

Fee Collection

OEDIT is authorized to levy the following fees on data center operators for administrative costs, which are deposited into the Colorado Economic Development Fund:

- no more than \$10,000 for each certification application; and
- no more than \$20,000 for each certification.

Workforce Development

Projects in the program must participate in at least one workforce development program and in economic development integration, as outlined in the bill.

Revocation and Repayment

OEDIT is authorized to revoke an operator's certification if the project has failed to make substantial progress within two years or maintain compliance. If a certification is revoked, the operator must repay the entire amount of the sales and use tax claimed.

Targeted Resource Acquisition

The bill allows utilities regulated by the PUC's resource planning authority to submit a targeted resource acquisition application describing how the utility intends to meet energy and capacity needs created by one or more emerging large load customers. 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. The PUC must review these applications and establish rules for investor-owned utilities serving these large load customers.

Utilities may also establish an advanced energy technologies fund, which large load customers may voluntarily pay into for the utility's costs for system resources and infrastructure, among other uses. Lastly, the bill establishes procedures for application approval, resource reimbursement, emerging large load funding, and requires the PUC to begin rulemaking by June 30, 2027.

Background and Assumptions

Comparable Programs

Currently, 31 states offer tax incentives for data centers. In Illinois, new and existing data centers that invest a minimum of \$250 million over a five-year period and employ at least 20 full-time local workers are eligible for a sales and use tax exemption. In 2020, six data centers qualified for the exemption, five of which either met or exceeded the minimum investment commitment within two years. The actual reported investment of these five data centers is about \$3 billion. In 2021, seven additional data centers qualified for the exemption, six of which either met or exceeded the minimum investment commitment within two years. The actual reporting investment of these additional six data centers is about \$6 billion.

Unlike the Illinois tax exemption program, Senate Bill 25-280 only applies to new data centers and not those already in existence; therefore, program participation is expected to be lower.

Program Utilization

Beginning in tax year 2026, the fiscal note assumes that at least three data center project will qualify and receive certification. This project is expected to generate \$900 million in capital investments, with 20 percent in sales and use tax exemptions being claimed in the first year and 80 percent in the second year. The fiscal note further assumes that two more data centers will qualify and receive certification in 2027, 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	Cumulative Data Center Investments
2026	3	\$900 million	\$0.9 billion
2027	5	\$600 million	\$1.5 billion
2028	7	\$600 million	\$2.1 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. 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 taxation that would otherwise be collected by the state, and to the extent that it motivates businesses to build larger data centers in order to meet the exemption thresholds. The fiscal note assumes that the bill will incentivize businesses to invest in larger data centers than they otherwise would. However, the note does not estimate sales and use tax exemptions for the purchase and use of property that would otherwise not be purchased or used.

State Revenue

The bill decreases General Fund revenue and increases cash fund revenue beginning in FY 2025-26, as shown in Table 3 and discussed below. All impacted revenue is subject to TABOR.

**Table 3
 Revenue Impacts**

Fund Source	FY 2025-26	FY 2026-27	FY 2027-28
General Fund	-\$2.6 million	-\$17.4 million	-\$38.8 million
Colorado Economic Development Fund	\$90,000	\$141,804	\$141,804
Fixed Utility Fund	\$441,997	\$502,231	\$592,506
Total Revenue	-\$2.1 million	-\$16.8 million	-\$38.1 million

Tax Program Revenue

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 2025-26	FY 2026-27	FY 2027-28
Sales and Use Tax Exemption	-\$2.6 million	-\$17.4 million	-\$38.8 million
Total Revenue	-\$2.6 million	-\$17.4 million	-\$38.8 million

Based on the Assumptions section, the fiscal note estimates that sales and use tax exemption claims will reduce General Fund revenue by \$2.6 million in FY 2025-26, representing an accrued half-year impact for tax year 2026, \$17.4 million in FY 2026-27, and \$38.8 million in FY 2027-28 with larger impacts in subsequent years. In addition, ongoing maintenance costs and upgrades are expected to compound as more data centers qualify for exemption.

Fee Impact on Data Center Operators and Regulated Utilities

Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency.

Application and Certification Fee Revenue

The bill increases fee revenue in OEDIT by about \$90,000 in FY 2025-26 and \$142,000 in future years from application and certification fees levied on data center operators, as shown in Table 3B below.

**Table 3B
 Application and Certification Fee Revenue
 Colorado Economic Development Fund**

Source	FY 2025-26	FY 2026-27	FY 2027-28
Application Fee	\$30,000	\$50,000	\$70,000
Certification Fee	\$60,000	\$91,804	\$71,804
Total Revenue	\$90,000	\$141,804	\$141,804

OEDIT may impose application and certification fees of up to \$10,000 and \$20,000, respectively, on data center operators applying for certification. The fiscal note assumes that OEDIT will charge the maximum application fee and adjust the certification fee to cover administrative costs. Additionally, it is assumed that the office will receive and approve three applications in

FY 2025-26, five in FY 2026-27, and seven in FY 2027-28, as shown in Table 3A above. Application and certification fee revenue is deposited into the Colorado Economic Development Fund. Actual revenue will vary depending on the number of applicants.

Utility Fee Revenue

The bill increases state cash fund revenue to the Fixed Utility Fund (FUF) by about \$442,000 in FY 2025-26, \$502,000 in FY 2026-27, and \$592,000 in 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 \$833,000 in FY 2025-26, \$755,000 in FY 2026-27, and \$892,000 in future years. These costs will be incurred in OEDIT and the CEO in the Governor's Office, the PUC in the Department of Regulatory Agencies, and the Department of Revenue, as shown in Table 4 and described below. Costs are paid from the General Fund, the Colorado Economic Development Fund, and the Fixed Utility Fund.

Table 4
State Expenditures – All Departments

Department	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Governor's Office – OEDIT	\$293,474	\$141,804	\$141,804
Governor's Office – CEO	\$62,218	\$102,340	\$149,149
Department of Regulatory Agencies – PUC	\$441,997	\$502,231	\$592,506
Department of Revenue	\$35,784	\$8,702	\$8,702
Total Costs	\$833,473	\$755,077	\$892,161

Office of Economic Development and International Trade

The bill increases expenditures in OEDIT by about \$293,000 in FY 2025-26, paid in part from application and certification fee revenue in the Colorado Economic Development Fund. The remaining \$263,000 is paid from the General Fund. Beginning in FY 2026-27, expenditures increase by about \$142,000, paid entirely from cash funds, as shown in Table 4A below.

Table 4A
State Expenditures – Office of Economic Development and International Trade

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Personal Services	\$117,201	\$117,201	\$117,201
Operating Expenses	\$1,280	\$1,280	\$1,280
Capital Outlay Costs	\$6,670	\$0	\$0
Contractor	\$75,000	\$0	\$0
Software Development	\$70,000	\$0	\$0
Centrally Appropriated Costs	\$23,323	\$23,323	\$23,323
Total Costs	\$293,474	\$141,804	\$141,804
General Fund	\$203,474	\$0	\$0
Cash Funds	\$90,000	\$141,804	\$141,804
Total FTE	1.0 FTE	1.0 FTE	1.0 FTE

Staff

Starting in FY 2025-26, OEDIT requires 1.0 FTE Program Management III to manage program continuation, evaluate ongoing certification applications, coordinate with state agencies, administer the credit, and review annual reports.

Contractor

In FY 2025-26 only, OEDIT requires an estimated \$75,000 to hire a contractor to establish program policies, develop program materials, communicate the tax incentive programs, and begin receiving applications. Given the short period between the bill’s effective date and receiving program applications, it is assumed these contracting services are required to facilitate rapid program development. Actual costs will be determined through the contracting process.

Software Development

OEDIT’s software system requires an estimated \$70,000 to integrate two new tax credit forms, at a rate of \$35,000 per form.

Colorado Energy Office

The bill increases state expenditures in the CEO by about \$62,000 in FY 2025-26, \$102,000 in FY 2026-27, and \$149,000 in future years, paid from the General Fund and shown in Table 4B.

**Table 4B
 State Expenditures – Colorado Energy Office**

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Personal Services	\$35,160	\$35,160	\$35,160
Legal Services	\$20,061	\$60,183	\$106,992
Centrally Appropriated Costs	\$6,997	\$6,997	\$6,997
FTE – Personal Services	0.3 FTE	0.3 FTE	0.3 FTE
FTE – Legal Services	0.1 FTE	0.3 FTE	0.4 FTE
Total Costs	\$62,218	\$102,340	\$149,149
Total FTE	0.4 FTE	0.6 FTE	0.7 FTE

Staff

Beginning in FY 2025-26, the CEO requires 0.3 FTE Policy Advisor VII to assist OEDIT with certification applications, reviewing filings with the PUC, develop standards for minimizing transmission costs, and align program eligibility and compliance with state energy regulations.

Legal Services

In FY 2025-26, the CEO requires 150 hours of legal services, provided by the provided by the Department of Law, for initial rulemaking and targeted resource acquisition proceedings. In future years, the CEO requires an increasing number of hours of legal services for continued rulemaking and proceedings in alignment with the assumed number of data center applicants.

Public Utilities Commission

The bill increases expenditures in the PUC by about \$442,000 in FY 2025-26, \$502,000 in FY 2026-27, and \$593,000 in FY 2027-28, paid from the Fixed Utility Fund. These impacts and fund sources are shown in Table 4C below.

**Table 4C
 State Expenditures – Public Utilities Commission**

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Personal Services	\$311,761	\$311,761	\$311,761
Operating Expenses	\$3,840	\$3,840	\$3,840
Capital Outlay Costs	\$20,010	\$0	\$0
Legal Services	\$40,122	\$120,366	\$210,641
Centrally Appropriated Costs	\$66,264	\$66,264	\$66,264
FTE – Personal Services	3.0 FTE	3.0 FTE	3.0 FTE
FTE – Legal Services	0.2 FTE	0.5 FTE	0.9 FTE
Total Costs	\$441,997	\$502,231	\$592,506
Total FTE	3.2 FTE	3.5 FTE	3.9 FTE

Staff

Beginning in FY 2025-26, the PUC requires 1.0 FTE Rate/Financial Analyst IV, 1.0 FTE Professional Engineer II, and 1.0 Project Manager II to conduct feasibility assessments for data center projects, review tax program and resource acquisition applications, review electric resource plans or infrastructure proceedings involving large load customers, establish utility benefit standards, and coordinate with state agencies on compliance and ongoing program administration.

Legal Services

In FY 2025-26, the PUC requires 300 hours of legal services, provided by the provided by the Department of Law, for initial rulemaking and implementation of the program. In future years, the PUC requires an increasing number of hours of legal services for continued rulemaking, ongoing program administration, and increased complaints and litigation.

Department of Revenue

The bill increases expenditures in the Department of Revenue by about \$36,000 in FY 2025-26 and \$8,700 in future years to update existing tax forms, test programming changes, and evaluate the new tax programs. These costs are paid from the General Fund and shown in Table 4D below.

Table 4D
State Expenditures – Department of Revenue

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
GenTax Programming	\$18,540	\$0	\$0
Systems Support Office	\$5,810	\$0	\$0
Office of Research and Analysis	\$8,778	\$8,702	\$8,702
User Acceptance Testing	\$2,656	\$0	\$0
Total Costs	\$35,784	\$8,702	\$8,702

Computer Programming and Testing

In the first year, workload in DOR will increase to update the GenTax software system and additional testing to implement the state and use tax exemption and the income tax credit. Changes are programmed by a contractor at a cost of \$231.75 per hour, for an estimated 80 hours in FY 2025-26. Additional computer and user acceptance testing are required to ensure programming changes function properly.

Data Reporting

Starting in FY 2025-26, workload in the Office of Research and Analysis will increase to collect and report data on the new tax programs.

School Finance

To the extent that the bill increases the local share of total program funding for school finance, the state aid requirement will decrease. This decrease will depend on future action and has not been estimated.

Other Agency Impacts

Workload in the DNR and the Office of the State Auditor will minimally increase to collaborate with OEDIT on certification applications and to evaluate the effectiveness of the tax programs, respectively. This workload is expected to be minimal and no change in appropriations is required.

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 include employee insurance and supplemental employee retirement payments, are shown in the expenditure tables above.

TABOR Refunds

On net, the bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27.

The bill decreases General Fund subject to TABOR, which will decrease the amount of General Fund revenue required to be refunded to taxpayers with no net impact on the amount available for the General Fund budget. 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 budget.

Local Government

Local Government Revenue

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 local share property tax revenue will result in a corresponding decrease in revenue from the state share of school finance.

Local Government Workload

The bill minimally increases workload for local governments and utilities to review data center projects and collaborate with OEDIT on infrastructure planning, environmental compliance, and technical assistance. This workload is expected to be minimal.

Technical Note

The bill requires data centers applying for certification to reimburse the PUC for costs associated with the planning and feasibility assessment. However, the bill does not provide a mechanism for cost recovery, such as a fee levied on these applicants. Therefore, the fiscal note assumes that all costs in the PUC will be paid from increased fees levied on utilities, paid to the FUF.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2025-26, the bill requires the following appropriations:

- \$270,151 to the Office of Economic Development in the Governor’s Office, including \$90,000 from the Colorado Economic Development Fund and \$180,151 from the General Fund, and 1.0 FTE;
- \$55,221 from the General Fund to the Colorado Energy Office in the Governor’s Office, and 0.3 FTE; of which \$20,061 is reappropriated to the Department of Law, with an additional 0.4 FTE;
- \$375,733 from the Fixed Utility Fund to the Public Utilities Commission in the Department of Regulatory Agencies and 3.0 FTE; of which \$40,122 is reappropriated to the Department of Law, with an additional 0.2 FTE; and
- \$35,784 from the General Fund to the Department of Revenue.

State and Local Government Contacts

Colorado Energy Office	Regulatory Agencies
Counties	Revenue
Economic Development	State Auditor
Natural Resources	