

Multiple Agency Fiscal Note Summary

Bill Number: 5689 2S SB	Title: Internet projects/tribes
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Revenue	(3,810,000)	(3,810,000)	(3,900,000)	(1,900,000)	(1,900,000)	(1,950,000)	0	0	0
Total \$	(3,810,000)	(3,810,000)	(3,900,000)	(1,900,000)	(1,900,000)	(1,950,000)	0	0	0

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		(1,500,000)		(750,000)		
Local Gov. Total		(1,500,000)		(750,000)		

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Revenue	.6	263,800	263,800	263,800	.2	41,800	41,800	41,800	.2	41,800	41,800	41,800
Department of Labor and Industries	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	0.6	263,800	263,800	263,800	0.2	41,800	41,800	41,800	0.2	41,800	41,800	41,800

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

Prepared by: Cheri Keller, OFM

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Date Published:
Final 3/30/2023

Department of Revenue Fiscal Note

Bill Number: 5689 2S SB	Title: Internet projects/tribes	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax	(1,270,000)	(2,540,000)	(3,810,000)	(1,900,000)	
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	(30,000)	(60,000)	(90,000)	(50,000)	
Total \$	(1,300,000)	(2,600,000)	(3,900,000)	(1,950,000)	

Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0	0.2	0.6	0.2	0.2
GF-STATE-State 001-1	242,800	21,000	263,800	41,800	41,800
Total \$	242,800	21,000	263,800	41,800	41,800

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Jeffrey Mitchell	Phone: 60-786-7438	Date: 03/28/2023
Agency Preparation: Taylor Culp	Phone: 60-534-1511	Date: 03/29/2023
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 03/29/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/29/2023

Request # 5689-4-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Note: This fiscal note reflects language in 2SSB 5689, 2023 Legislative Session.

CURRENT LAW:

Businesses performing construction both in and outside Indian country only exclude sales tax from the portion of the contract related to work done in Indian country. If the business performs work for a tribe or enrolled tribal member/citizen outside of their Indian country, for example road work extending outside of Indian country, the business must collect and pay retail sales tax on the portion of work performed outside Indian country.

PROPOSAL:

This bill provides a sales and use tax exemption for sales, labor, and services associated with the construction of a qualified infrastructure project (QIP).

The exemption applies to:

- Sales of building materials
- Telecommunications equipment
- Personal property used or incorporated into a qualified infrastructure project
- Charges made for the labor and services related to the construction of a QIP
- The installation of any equipment or other personal property incorporated into a QIP

Taxpayers must apply to the Department of Revenue (department) for an exemption certificate. The application must include the information necessary, as required by the department, to determine that the taxpayer qualifies for the exemption. The application must also include certification from the owner of the QIP that the taxpayer is associated with the QIP. To obtain the exemption, the QIP owner must certify to the department of labor and industry that it will meet certain contractor requirements.

The exemption certificate is effective from the date the department receives the application, which is the date of issuance. No tax refunds are authorized for purchases made before the effective date of the exemption.

The exemption certificate expires on the date the QIP owner certifies the project as complete or December 31, 2029, whichever is first.

The total amount of state sales and use tax exempted may not exceed \$8 million.

Qualified infrastructure project means the construction of buildings and utilities related to the deployment of modern global internet and telecommunications infrastructure that occurs in part in a distressed county located on the coast of Washington.

Qualified infrastructure project owner means a federally recognized tribe and an indigenous-owned business entity deploying an internet and telecommunications infrastructure in at least one distressed county on the coast of Washington.

This exemption expires December 31, 2029.

EFFECTIVE DATE:

The bill takes effect 90 days after final adjournment of the session. However, due to the time it will take to program this bill's changes, the department is unable to implement the bill until January 1, 2024.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:

There will be one QIP constructed in two phases at a total project cost of \$90 million.

Phase 1: "East-West Network"

- A new East-West Network of buried long-haul fiber will be installed from Hogan's Corner, WA, to Centralia, WA (approximately 80 miles) and a branch network will be installed from Hoquiam, WA to Moclips, WA (approximately 20 miles).
- An Integrated Line Amplifier (ILA) facility will be constructed at the midpoint of the East-West Network, near Elma, WA, that will provide the opportunity for interconnection to the public internet of subscribers along the route.

Phase 2: "Cable Landing Station"

- A new Cable Landing Station (CLS) facility will be built in Hogan's Corner, WA.
- A new Fronthaul Network will be constructed and will include approximately two miles of buried conduit for fiber and power that will connect from the CLS to a beach manhole located adjacent to the shoreline of the Pacific Ocean west of Hogan's Corner. This will include up to four empty conduits that will be bored approximately 150 feet below the surface from the beach manhole and will extend approximately 0.75 miles offshore before existing in the Pacific Ocean and being plugged.
- No portion of the QIP will occur on Trust Land or on the Quinault Indian Reservation.
- Local revenue estimates use the Grays Harbor County average local sales and use tax rate of 2.49%.
- The department implements this legislation January 1, 2024. Applications are received, with the exemptions being effective, immediately impacting six months of collections in fiscal year 2024.

DATA SOURCES:

Project details as provided by Toptana Technologies

POTENTIAL LITIGATION:

Legislation creating new exemptions for construction projects presents a risk that the federal government or federal contractors will seek to re-litigate *Washington v. United States* in which they would claim that Washington now discriminates against federal contractors. This risk increases with each additional exemption that the state enacts.

REVENUE ESTIMATES:

This bill decreases state revenues by an estimated \$1.3 million in the six months of impacted collections in fiscal year 2024, and by \$2.6 million in fiscal year 2025, the first full year of impacted collections.

This bill also decreases local revenues by an estimated \$500,000 in the six months of impacted collections in fiscal year 2024, and by \$1 million in fiscal year 2025, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	(\$ 1,300)
FY 2025 -	(\$ 2,600)
FY 2026 -	(\$ 1,950)
FY 2027 -	\$ 0

FY 2028 - \$ 0
FY 2029 - \$ 0

Local Government, if applicable (cash basis, \$000):

FY 2024 - (\$ 500)
FY 2025 - (\$ 1,000)
FY 2026 - (\$ 750)
FY 2027 - \$ 0
FY 2028 - \$ 0
FY 2029 - \$ 0

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:

Expenditures assume this bill affects 10 taxpayers performing construction services on QIPs.

FIRST YEAR COSTS:

The department will incur total costs of \$242,800 in fiscal year 2024. These costs include:

Labor Costs – Time and effort equate to 1.0 FTE.

- Adopt one new excise tax advisory.
- Set up, program, and test computer system changes.
- Process applications, issue exemption certificates, examine accounts and make corrections as necessary, process refund requests, and monitor reports.

Object Costs - \$121,100.

- Computer system changes, including contract programming.
- Travel cost for meetings.

SECOND YEAR COSTS:

The department will incur total costs of \$21,000 in fiscal year 2025. These costs include:

Labor Costs – Time and effort equate to 0.2 FTE.

- Continued computer system testing, monitoring, and maintenance.
- Process applications, issue exemption certificates, examine accounts and make corrections as necessary, process refund requests, and monitor reports.

Object Costs - \$100.

- Travel cost for meetings.

ONGOING COSTS:

Ongoing costs for the 2025-27 biennium equal \$41,800 and include similar activities described in the second-year costs. Time and effort equate to 0.2 FTE.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0	0.2	0.6	0.2	0.2
A-Salaries and Wages	75,000	13,500	88,500	27,000	27,000
B-Employee Benefits	24,700	4,500	29,200	9,000	9,000
C-Professional Service Contracts	121,000		121,000		
E-Goods and Other Services	15,200	2,300	17,500	4,600	4,600
G-Travel	100	100	200		
J-Capital Outlays	6,800	600	7,400	1,200	1,200
Total \$	\$242,800	\$21,000	\$263,800	\$41,800	\$41,800

III. B - Detail: FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EMS BAND 4	126,619	0.0		0.0		
EMS BAND 5	147,919	0.0		0.0		
EXCISE TAX EX 3	61,632	0.1	0.1	0.1	0.1	0.1
IT SYS ADM-JOURNEY	92,844	0.2		0.1		
MGMT ANALYST4	73,260	0.6	0.1	0.4	0.1	0.1
TAX POLICY SP 2	75,120	0.0		0.0		
TAX POLICY SP 3	85,020	0.1		0.0		
TAX POLICY SP 4	91,524	0.0		0.0		
WMS BAND 3	107,685	0.0		0.0		
Total FTEs		1.0	0.2	0.6	0.2	0.2

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 5689 2S SB	Title: Internet projects/tribes	Agency: 235-Department of Labor and Industries
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Jeffrey Mitchell	Phone: 360-786-7438	Date: 03/28/2023
Agency Preparation: Bobby Kendall	Phone: 902-6980	Date: 03/30/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 03/30/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 03/30/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

This bill proposes a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe on the coast of Washington. To obtain an exemption certificate, project owners must submit an application to the Department of Revenue. The Department of Revenue will issue exemption certificates once the application is reviewed and it is verified the requirements for exemption have been met by the project owner.

2SSB 5689 is different from SSB 5689 in that it:

- Removes data centers from the definition of a qualified infrastructure project.
- Adds language to Section 3 that requires projects owners certify, for new construction to be performed, the project will be performed under the terms of a community workforce agreement or project labor agreement negotiated prior to the start of the project. The agreement must include worker compensation requirements consistent with the payment of area standard prevailing wages, apprenticeship utilization, and tribal employment and contracting opportunities.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The proposed bill does not have fiscal impact for the Department of Labor and Industries. As written, this bill does not direct the Department of Labor and Industries to do any activities beyond accepting certifications from the project owners. The Department of Revenue is tasked with reviewing exemption applications and issuing exemption certifications.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

None.

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

LOCAL GOVERNMENT FISCAL NOTE

Revised

Department of Commerce

Bill Number: 5689 2S SB	Title: Internet projects/tribes
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities:
- Counties: decrease in sales tax revenue
- Special Districts:
- Specific jurisdictions only: Grays Harbor County
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time:

Estimated revenue impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
County	(500,000)	(1,000,000)	(1,500,000)	(750,000)	
TOTAL \$	(500,000)	(1,000,000)	(1,500,000)	(750,000)	
GRAND TOTAL \$					(2,250,000)

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Angie Hong	Phone: 360-725-5041	Date: 03/29/2023
Leg. Committee Contact: Jeffrey Mitchell	Phone: 360-786-7438	Date: 03/28/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/29/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/29/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

CHANGES FROM PREVIOUS BILL VERSION

This second substitute bill removes “data centers” from the list of infrastructure projects a QIP may include, and revises workforce requirements. These changes do not alter the previous analysis of local government impact.

SUMMARY OF CURRENT BILL VERSION

This bill provides a sales and use tax exemption for sales, labor and services associated with the construction of a qualified infrastructure project (QIP).

The exemption applies to:

- Sales of building materials
- Telecommunications equipment
- Personal property used or incorporated into a qualified infrastructure project
- Charges made for the labor and services related to the construction of a QIP
- The installation of any equipment or other personal property incorporated into a QIP

Qualified infrastructure project means the construction of buildings and utilities related to the deployment of modern global internet and telecommunications infrastructure that occurs in part in a distressed county located on the coast of Washington.

Qualified infrastructure project owner means a federally recognized tribe and an indigenous-owned business entity deploying an internet and telecommunications infrastructure in at least one distressed county on the coast of Washington.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

CHANGES FROM PREVIOUS BILL VERSION

Changes to this bill version do not alter the previous analysis of impacts.

SUMMARY OF CURRENT BILL EXPENDITURE IMPACTS

By itself, the authority granted in this resolution has no fiscal impact.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

CHANGES FROM PREVIOUS BILL VERSION

Changes to this bill version do not alter the previous analysis of impacts.

SUMMARY OF CURRENT BILL REVENUE IMPACTS

This sales tax exemption created by this bill would decrease local government sales tax revenue.

According to the Department of Revenue (DOR) this bill decreases local revenues by an estimated \$500,000 in the five months of impacted collections in fiscal year 2024, and by \$1 in fiscal year 2025, the first full year of impacted collections. Please see the DOR fiscal note for all their assumptions and data sources. There is one project in Grays Harbor County this tax exemption would apply to. Because sales and use tax is reported by the delivery location, DOR assumes the sales tax revenue loss only impacts Grays Harbor County.

REVENUE LOSS FOR GRAYS HARBOR COUNTY

FY 2024 -\$ 500,000
FY 2025 -\$ 1,000,000
FY 2026 -\$ 750,000
FY 2027 \$0
FY 2028 \$0
FY 2029 \$0

SOURCES:

Department of Revenue

Department of Revenue fiscal note, HB 1711 (2023)