

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: SB1522

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Barker

3. Committee: Passed both Houses.

4. Title: Data centers and cloud computing; sales tax exemption; grant fund.

5. Summary: Creates the Cloud Computing Cluster Infrastructure Grant Fund for the purpose of providing grants to qualified companies, defined in the bill as a company, including its affiliates, that enters into a memorandum of understanding with the Virginia Economic Development Partnership Authority and is expected to (i) make or cause to be made a capital investment of at least \$50 billion and (ii) create at least 1,500 new full-time jobs that pay an average annual wage of at least one and a half times the prevailing wage of the locality where the job is located. The bill requires that, in order to become a qualified company, a company successfully complete a qualification process that includes an endorsement from the Major Employment and Investment (MEI) Commission and approval in the appropriation act for the amount of grants that are to be provided.

The bill also extends the data center sales and use tax exemption to 2040 for a data center operator that (i) makes a capital investment of at least \$35 billion in data centers in the Commonwealth and (ii) creates at least 1,000 direct new jobs, of which at least 100 jobs pay 1.5 times the Commonwealth's prevailing average wage. A data center operator shall be considered to own a data center if it is operated on behalf of the data center operator pursuant to a long-term lease. Such data center operator shall be eligible for further extension to 2050 if the data center operator (i) makes a total capital investment of at least \$100 billion, inclusive of the initial \$35 billion investment, and (ii) creates a total of at least 2,500 direct new jobs, of which at least 100 jobs pay 1.5 times the Commonwealth's prevailing average wage, inclusive of the 1,000 jobs initially created.

6. Budget Amendment Necessary: No, not in the current biennium.

7. Fiscal Impact Estimates: Final.

8. Fiscal Implications: This bill extends the data center sales and use tax exemption, which is currently set to expire on June 30, 2035. The first extension is through 2040, with further extension to 2050 for data centers that meet certain criteria specified in the provisions of the bill. According to the Department of Taxation (TAX), extension of the data center exemption beyond June 30, 2035, would have no fiscal impact on the Commonwealth because it is

outside of the official revenue forecast. In addition, the official general fund revenue forecast generally assumes extension of expiring tax provisions. TAX considers implementation of this bill as routine and does not require additional resources.

The bill also creates in the state treasury a special nonreverting fund to be known as the Cloud Computing Cluster Infrastructure Grant Fund. Moneys in the fund shall be used solely for the purpose of making grant payments to qualifying companies beginning July 1, 2025, ending on July 1, 2044. Qualification for a grant shall require an endorsement by the MEI Commission and legislation to implement the MEI Commission's recommendation introduced in a subsequent session of the General Assembly. The actual amount of grants paid from the Fund are subject to appropriation by the General Assembly and will be contingent upon the company meeting the performance requirements set forth in the memorandum of understanding. The grant amounts that might be paid in each fiscal year cannot be estimated at this time since payments will depend upon the capital investment made and the actual number of new, qualifying jobs created.

The Fund will be administered by the Virginia Economic Development Partnership (VEDP) and the Secretary of Commerce and Trade. The second enactment of the bill states that, upon entering a memorandum of understanding with a qualified company, VEDP shall hire a full-time project coordinator to assist each qualified company with managing projects with the Commonwealth and its agencies and local government entities. Prior to the payment of any grants from the Fund, VEDP shall be credited \$200,000 annually to reimburse VEDP for the cost of such coordinator. The costs for the coordinator shall count toward the aggregate cap of grants that may be paid to the qualified company.

9. Specific Agency or Political Subdivisions Affected: Virginia Economic Development Partnership; Department of Taxation; Secretary of Commerce and Trade; MEI Commission.

10. Technical Amendment Necessary: No.

11. Other Comments: HB2479 is the companion to this bill.