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**HOUSE BILL 2895**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Gildon, Chambers, Stokesbary, Irwin, Caldier, Barkis, Young, and Graham

Read first time 01/29/20. Referred to Committee on Finance.

1 AN ACT Relating to providing a tax preference for rural and  
2 nonrural data centers; amending RCW 82.08.986; adding a new section  
3 to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW;  
4 creating new sections; and providing expiration dates.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that data centers  
7 are a cornerstone for strong internet infrastructure that is critical  
8 to the continuing prosperity of Washington's vibrant digital economy.  
9 Under current law, data center incentives are restricted to rural  
10 counties and have improved the economies of rural counties. The  
11 legislature recognizes that rural county data center investments are  
12 necessary but insufficient for the state's total economy and  
13 competitiveness. Washington is the only state that restricts  
14 incentives geographically. As a result, data centers serving urban  
15 counties requiring higher performance and that offer colocation  
16 services for multiple tenants that foster technology ecosystems are  
17 lost to other states, particularly neighboring Oregon. The  
18 legislature further finds that despite the need, the lack of data  
19 center usage growth in Washington urban counties is primarily due to  
20 the sales tax, which can add as much as ten percent to the total cost  
21 of ownership and often runs into the millions of dollars for even

1 mid-level users. Therefore, the legislature authorizes sales tax  
2 abatement for tenants in as many as eight data centers in  
3 Washington's urban counties.

4 NEW SECTION. **Sec. 2.** (1) This section is the tax preference  
5 performance statement for the tax preferences in sections 3, 4, and  
6 5, chapter . . . , Laws of 2020 (sections 3, 4, and 5 of this act).  
7 This performance statement is only intended to be used for subsequent  
8 evaluation of the tax preferences. It is not intended to create a  
9 private right of action by any party or be used to determine  
10 eligibility for preferential tax treatment.

11 (2) The legislature categorizes these tax preferences as ones  
12 intended to improve industry competitiveness, as indicated in RCW  
13 82.32.808(2)(b) and as one intended to create or retain jobs as  
14 indicated in RCW 82.32.808(2)(c).

15 (3) It is the legislature's specific public policy objective to  
16 improve industry competitiveness and to increase, create, or retain  
17 jobs in computer data centers in Washington state, thereby increasing  
18 family wage jobs. It is the legislature's intent to provide a sales  
19 and use tax exemption on eligible server equipment and power  
20 infrastructure installed in eligible computer data centers, charges  
21 made for labor and services rendered in respect to installing  
22 eligible server equipment, and for construction, installation,  
23 repair, alteration, or improvement of eligible power infrastructures  
24 in order to increase investment in data center construction, leasing,  
25 and other investment throughout the state of Washington, thereby  
26 growing employment in the technology industry in the state while  
27 adding real and personal property to state and local property tax  
28 rolls, thereby increasing the county tax base.

29 (4) The legislature intends to extend the expiration date of the  
30 tax preferences in this act and expand the applicability of the tax  
31 preferences to the entire state of Washington if a review finds that:

32 (a) As a proxy for overall technology industry growth, the amount  
33 of electrical capacity deployed attributable to these projects  
34 increased by at least ten percent over the capacity deployed in the  
35 nonrural data centers in the state since 2016; or

36 (b) The county tax base increased as a result of the  
37 construction, leasing, and other investment of computer data centers  
38 eligible for the tax preferences.

1 (5) In order to obtain the data necessary to perform the review  
2 in subsection (4) of this section, the joint legislative audit and  
3 review committee may refer to data available from the department of  
4 revenue regarding county property tax assessments and data provided  
5 to the department of revenue pursuant to the annual tax performance  
6 report required under RCW 82.32.534.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08  
8 RCW to read as follows:

9 (1) An exemption from the tax imposed by RCW 82.08.020 is  
10 provided for sales to qualifying businesses and to qualifying tenants  
11 of eligible server equipment to be installed, without intervening  
12 use, in an eligible computer data center, and to charges made for  
13 labor and services rendered in respect to installing eligible server  
14 equipment. The exemption also applies to sales to qualifying  
15 businesses and to qualifying tenants of eligible power  
16 infrastructure, including labor and services rendered in respect to  
17 constructing, installing, repairing, altering, or improving eligible  
18 power infrastructure.

19 (2) (a) (i) In order to qualify for the exemption, a qualifying  
20 business must be located in a nonrural county, demonstrate that it  
21 possesses sufficient capacity to meet the minimum tenant take down  
22 requirement no less than ten times and in the twelve months prior to  
23 applying, and must be in the business of servicing this scale and  
24 type of data center tenant.

25 (ii) For the purposes of demonstrating that the requirements of  
26 this subsection (2) (a) are met, a qualifying business must submit  
27 records of available power for customers at the time of the  
28 application for the exemption under this section. The qualifying  
29 business must demonstrate that it has 1.5 megawatt of available power  
30 and that in the prior twelve months such qualifying business was in  
31 the business of contracts utilizing capacity of at least one hundred  
32 fifty kilowatts each. The qualifying business must provide requests  
33 for proposals, pricing offered, and marketing materials associated  
34 with the requirements of this subsection, as required by the  
35 department, as supporting documentation that the requirements of this  
36 subsection (2) (a) have been met.

37 (b) In order to qualify for the exemption, a qualifying tenant  
38 must contract for a minimum electrical capacity of one hundred fifty  
39 kilowatts for server and computer equipment in a qualifying business.

1 Tenants that previously qualified under RCW 82.08.986 or 82.12.986  
2 must reapply if they intend to expand into a qualifying business.

3 (c) (i) The exemptions provided in this section are limited to  
4 qualifying businesses or tenants in no more than eight computer data  
5 centers. Each computer data center must be predefined at the time of  
6 application. Expansions beyond the initial perimeter and new computer  
7 data centers within the state must apply separately.

8 (ii) For the purposes of this subsection (2) (c):

9 (A) "Predefined" means that at the time of application, the  
10 qualifying business must indicate the data center's location and the  
11 boundaries where the incentives will apply, which may include new  
12 buildings for expansion in a campus. The exemption application of the  
13 qualifying business cannot be used in another location, as that  
14 location must apply separately; and

15 (B) "Expansions beyond the initial perimeter" means if a  
16 qualifying business purchases, after their initial application for an  
17 exemption under this section, a lot adjacent to the initial perimeter  
18 or a lot in a different location from the data center in their  
19 initial application, the qualifying business must amend their initial  
20 application for an exemption under this section or submit a new  
21 application, as required by the department, to include the expansion  
22 beyond the initial perimeter in order to notify the department of  
23 additional capacity that may qualify for an exemption under this  
24 section.

25 (3) Qualification for this section may be found in statements  
26 related to the amount of power contracted for at the site and what is  
27 available to sell, as well as the capacity of the backup power  
28 infrastructure.

29 (4) The pro rata portion of previously exempted sales and use  
30 taxes are immediately due and payable for a qualifying business or  
31 qualifying tenant that does not meet the minimum electrical capacity  
32 requirements in subsection (2) (b) of this section for a period of at  
33 least three years from the date of installation of the server  
34 equipment.

35 (5) Qualifying businesses and tenants must claim an exemption  
36 under this section in the current tax year when the taxes would have  
37 been due unless an extension is filed with the department.

38 (6) (a) A qualifying business or a qualifying tenant claiming an  
39 exemption under this section must complete an annual tax performance  
40 report as required in RCW 82.32.534. The tax performance report of a

1 qualifying business or a qualifying tenant must include the amount of  
2 electrical capacity, measured by kilowatts deployed within their  
3 nonrural data center.

4 (b) For the purposes of this subsection, kilowatts are measured  
5 by the amount of power for which the qualifying business or  
6 qualifying tenant contracted during the applicable tax year for which  
7 an exemption is claimed under this section. A qualifying business or  
8 qualifying tenant must maintain a contracted minimum of one hundred  
9 fifty kilowatts during the tax year for which the qualifying business  
10 or qualifying tenant is claiming an exemption under this section. The  
11 information required under this subsection must be reported to the  
12 department within thirty days after the last day of the exemption  
13 applicant's tax year.

14 (c) Information submitted on the tax performance report is not  
15 subject to the confidentiality provisions of RCW 82.32.330 and may be  
16 disclosed to the public upon request, except as provided otherwise in  
17 RCW 82.32.330.

18 (7) (a) The exemption provided in this section does not apply to:

19 (i) Any person who has received the benefit of the deferral  
20 program under chapter 82.60 RCW on the construction, renovation, or  
21 expansion of a structure or structures used as a computer data  
22 center; and

23 (ii) Any person affiliated with a person within the scope of  
24 (a) (i) of this subsection (7).

25 (b) If a person claims an exemption under this section and  
26 subsequently receives the benefit of the deferral program under  
27 chapter 82.60 RCW on either the construction, renovation, or  
28 expansion of a structure or structures used as a computer data center  
29 or machinery or equipment used in a computer data center, the person  
30 must repay the amount of taxes exempted under this section. Interest  
31 as provided in chapter 82.32 RCW applies to amounts due under this  
32 section until paid in full.

33 (8) The definitions in this subsection apply throughout this  
34 section unless the context clearly requires otherwise.

35 (a) "Affiliated" means that one person has a direct or indirect  
36 ownership interest of at least twenty percent in another person.

37 (b) "Building" means a fully enclosed structure with a weather  
38 resistant exterior wall envelope or concrete or masonry walls  
39 designed in accordance with the requirements for structures under  
40 chapter 19.27 RCW.

1 (c) (i) "Computer data center" means a facility comprised of one  
2 or more buildings, which may be comprised of multiple businesses,  
3 constructed or refurbished specifically, and used primarily, to house  
4 working servers, where the facility has the following  
5 characteristics: (A) Uninterruptible power supplies, generator backup  
6 power, or both; (B) sophisticated fire suppression and prevention  
7 systems; and (C) enhanced physical security, such as: Restricted  
8 access to the facility to selected personnel; permanent security  
9 guards; video camera surveillance; an electronic system requiring  
10 passcodes, keycards, or biometric scans, such as hand scans and  
11 retinal or fingerprint recognition; or similar security features.

12 (ii) For a computer data center comprised of multiple buildings,  
13 each separate building constructed or refurbished specifically, and  
14 used primarily, to house working servers is considered a computer  
15 data center if it has all of the characteristics listed in (c) (i) (A)  
16 through (C) of this subsection (8).

17 (iii) A facility comprised of one building or more than one  
18 building must have a combined square footage of at least one hundred  
19 thousand square feet.

20 (d) "Eligible computer data center" means a computer data center  
21 having at least twenty thousand square feet dedicated to housing  
22 working servers.

23 (e) "Eligible power infrastructure" means all fixtures and  
24 equipment owned by a qualifying business or qualifying tenant and  
25 necessary for the transformation, distribution, or management of  
26 electricity that is required to operate eligible server equipment  
27 within an eligible computer data center. The term includes  
28 generators; wiring; cogeneration equipment; and associated fixtures  
29 and equipment, such as electrical switches, batteries, and  
30 distribution, testing, and monitoring equipment. The term does not  
31 include substations.

32 (f) (i) "Eligible server equipment" means for a qualifying  
33 business whose computer data center qualifies as an eligible computer  
34 data center, the original server equipment installed in an eligible  
35 computer data center on or after the effective date of this section,  
36 and replacement server equipment.

37 (ii) For purposes of this subsection (8) (f), "replacement server  
38 equipment" means server equipment that:

1 (A) Replaces existing server equipment, if the sale or use of the  
2 server equipment to be replaced qualified for an exemption under this  
3 section or RCW 82.12.986; and

4 (B) Is installed and put into regular use ten years after the  
5 effective date of this section.

6 (iii) For a qualifying tenant who leases space within an eligible  
7 computer data center, "eligible server equipment" means the original  
8 server equipment installed within the space it leases from an  
9 eligible computer data center on or after ten years after the  
10 effective date of this section, and replacement server equipment. For  
11 purposes of this subsection (8)(f)(iii), "replacement server  
12 equipment" means server equipment that:

13 (A) Replaces existing server equipment, if the sale or use of the  
14 server equipment to be replaced qualified for an exemption under this  
15 section or RCW 82.12.986; and

16 (B) Is installed and put into regular use ten years after the  
17 effective date of this section.

18 (g) "Nonrural county" means a county that does not meet the  
19 definition of "rural county" under RCW 82.14.370.

20 (h) "Qualifying business" means a business entity that exists for  
21 the primary purpose of engaging in commercial activity for profit and  
22 that is the owner of an eligible computer data center. The term does  
23 not include the state or federal government or any of their  
24 departments, agencies, and institutions; tribal governments;  
25 political subdivisions of this state; or any municipal, quasi-  
26 municipal, public, or other corporation created by the state or  
27 federal government, tribal government, municipality, or political  
28 subdivision of the state.

29 (i) "Qualifying tenant" means a business entity that exists for  
30 the primary purpose of engaging in commercial activity for profit and  
31 that leases space from a qualifying business within an eligible  
32 computer data center. The term does not include the state or federal  
33 government or any of their departments, agencies, and institutions;  
34 tribal governments; political subdivisions of this state; or any  
35 municipal, quasi-municipal, public, or other corporation created by  
36 the state or federal government, tribal government, municipality, or  
37 political subdivision of the state.

38 (j) "Server equipment" means the computer hardware located in an  
39 eligible computer data center and used exclusively to provide  
40 electronic data storage and data management services for internal use

1 by the owner or lessee of the computer data center, for clients of  
2 the owner. For the purposes of this subsection, "electronic data  
3 storage and data management services" include, but are not limited  
4 to: Providing data storage and backup services, providing computer  
5 processing power, hosting enterprise software applications, and  
6 hosting web sites. The term also includes providing services such as  
7 email, web browsing and searching, media applications, and other  
8 online services, regardless of whether a charge is made for such  
9 services. "Server equipment" also includes computer software  
10 necessary to operate the computer hardware. "Server equipment" does  
11 not include personal computers, the racks upon which the server  
12 equipment is installed, and computer peripherals such as keyboards,  
13 monitors, printers, and mice.

14 (9) This section expires January 1, 2030.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12  
16 RCW to read as follows:

17 (1) An exemption from the tax imposed by RCW 82.12.020 is  
18 provided for the use by qualifying businesses or qualifying tenants  
19 of eligible server equipment to be installed, without intervening  
20 use, in an eligible computer data center, and to the use of labor and  
21 services rendered in respect to installing such server equipment. The  
22 exemption also applies to the use by a qualifying business or  
23 qualifying tenant of eligible power infrastructure, including labor  
24 and services rendered in respect to installing, repairing, altering,  
25 or improving such infrastructure.

26 (2) The exemption provided in this section does not apply to any  
27 person for whom the exemption under section 3 of this act does not  
28 apply.

29 (3) The definitions and requirements in section 3 of this act  
30 apply to this section.

31 (4) This section expires January 1, 2030.

32 **Sec. 5.** RCW 82.08.986 and 2017 c 135 s 26 are each amended to  
33 read as follows:

34 (1) An exemption from the tax imposed by RCW 82.08.020 is  
35 provided for sales to qualifying businesses and to qualifying tenants  
36 of eligible server equipment to be installed, without intervening  
37 use, in an eligible computer data center, and to charges made for  
38 labor and services rendered in respect to installing eligible server



1 equipment. Until January 1, 2026, the exemption also applies to sales  
2 to qualifying businesses and to qualifying tenants of eligible power  
3 infrastructure, including labor and services rendered in respect to  
4 constructing, installing, repairing, altering, or improving eligible  
5 power infrastructure.

6 (2)(a) In order to claim the exemption under this section, a  
7 qualifying business or a qualifying tenant must submit an application  
8 to the department for an exemption certificate. The application must  
9 include the information necessary, as required by the department, to  
10 determine that a business or tenant qualifies for the exemption under  
11 this section. The department must issue exemption certificates to  
12 qualifying businesses and qualifying tenants. The department may  
13 assign a unique identification number to each exemption certificate  
14 issued under this section.

15 (b) A qualifying business or a qualifying tenant claiming the  
16 exemption under this section must present the seller with an  
17 exemption certificate in a form and manner prescribed by the  
18 department. The seller must retain a copy of the certificate for the  
19 seller's files.

20 (c) With respect to computer data centers for which the  
21 commencement of construction occurs after July 1, 2015, but before  
22 July 1, 2019, the exemption provided in this section is limited to no  
23 more than eight computer data centers, with total eligible data  
24 centers provided under this section limited to twelve from July 1,  
25 2015, through July 1, 2025. Tenants of qualified data centers do not  
26 constitute additional data centers under the limit. The exemption is  
27 available on a first-in-time basis based on the date the application  
28 required under this section is received by the department. Exemption  
29 certificates expire two years after the date of issuance, unless  
30 construction has been commenced.

31 (3)(a) Within six years of the date that the department issued an  
32 exemption certificate under this section to a qualifying business or  
33 a qualifying tenant with respect to an eligible computer data center,  
34 the qualifying business or qualifying tenant must establish that net  
35 employment at the eligible computer data center has increased by a  
36 minimum of:

37 (i) Thirty-five family wage employment positions; or

38 (ii) Three family wage employment positions for each twenty  
39 thousand square feet of space or less that is newly dedicated to  
40 housing working servers at the eligible computer data center. For

1 qualifying tenants, the number of family wage employment positions  
2 that must be increased under this subsection (3)(a)(ii) is based only  
3 on the space occupied by the qualifying tenant in the eligible  
4 computer data center.

5 (b) In calculating the net increase in family wage employment  
6 positions:

7 (i) The owner of an eligible computer data center, in addition to  
8 its own net increase in family wage employment positions, may  
9 include:

10 (A) The net increase in family wage employment positions employed  
11 by qualifying tenants; and

12 (B) The net increase in family wage employment positions  
13 described in (c)(ii)(B) of this subsection (3).

14 (ii)(A) Qualifying tenants, in addition to their own net increase  
15 in family wage employment positions, may include:

16 (I) A portion of the net increase in family wage employment  
17 positions employed by the owner; and

18 (II) A portion of the net increase in family wage employment  
19 positions described in (c)(ii)(B) of this subsection (3).

20 (B) The portion of the net increase in family wage employment  
21 positions to be counted under this subsection (3)(b)(ii) by each  
22 qualifying tenant must be in proportion to the amount of space in the  
23 eligible computer data center occupied by the qualifying tenant  
24 compared to the total amount of space in the eligible computer data  
25 center occupied by all qualifying tenants.

26 (c)(i) For purposes of this subsection, family wage employment  
27 positions are new permanent employment positions requiring forty  
28 hours of weekly work, or their equivalent, on a full-time basis at  
29 the eligible computer data center and receiving a wage equivalent to  
30 or greater than one hundred fifty percent of the per capita personal  
31 income of the county in which the qualified project is located. An  
32 employment position may not be counted as a family wage employment  
33 position unless the employment position is entitled to health  
34 insurance coverage provided by the employer of the employment  
35 position. For purposes of this subsection (3)(c), "new permanent  
36 employment position" means an employment position that did not exist  
37 or that had not previously been filled as of the date that the  
38 department issued an exemption certificate to the owner or qualifying  
39 tenant of an eligible computer data center, as the case may be.

1 (ii) (A) Family wage employment positions include positions filled  
2 by employees of the owner of the eligible computer data center and by  
3 employees of qualifying tenants.

4 (B) Family wage employment positions also include individuals  
5 performing work at an eligible computer data center as an independent  
6 contractor hired by the owner of the eligible computer data center or  
7 as an employee of an independent contractor hired by the owner of the  
8 eligible computer data center, if the work is necessary for the  
9 operation of the computer data center, such as security and building  
10 maintenance, and provided that all of the requirements in (c) (i) of  
11 this subsection (3) are met.

12 (d) All previously exempted sales and use taxes are immediately  
13 due and payable for a qualifying business or qualifying tenant that  
14 does not meet the requirements of this subsection.

15 (4) A qualifying business or a qualifying tenant claiming an  
16 exemption under this section or RCW 82.12.986 must complete an annual  
17 tax performance report with the department as required under RCW  
18 82.32.534.

19 ~~(5) ((a) The exemption provided in this section does not apply~~  
20 ~~to:~~

21 ~~(i) Any person who has received the benefit of the deferral~~  
22 ~~program under chapter 82.60 RCW on: (A) The construction, renovation,~~  
23 ~~or expansion of a structure or structures used as a computer data~~  
24 ~~center; or (B) machinery or equipment used in a computer data center;~~  
25 ~~and~~

26 ~~(ii) Any person affiliated with a person within the scope of~~  
27 ~~(a) (i) of this subsection (5).~~

28 ~~(b) If a person claims an exemption under this section and~~  
29 ~~subsequently receives the benefit of the deferral program under~~  
30 ~~chapter 82.60 RCW on either the construction, renovation, or~~  
31 ~~expansion of a structure or structures used as a computer data center~~  
32 ~~or machinery or equipment used in a computer data center, the person~~  
33 ~~must repay the amount of taxes exempted under this section. Interest~~  
34 ~~as provided in chapter 82.32 RCW applies to amounts due under this~~  
35 ~~section until paid in full.~~

36 ~~(6))~~ The definitions in this subsection apply throughout this  
37 section unless the context clearly requires otherwise.

38 (a) "Affiliated" means that one person has a direct or indirect  
39 ownership interest of at least twenty percent in another person.

1 (b) "Building" means a fully enclosed structure with a weather  
2 resistant exterior wall envelope or concrete or masonry walls  
3 designed in accordance with the requirements for structures under  
4 chapter 19.27 RCW. This definition of "building" only applies to  
5 computer data centers for which commencement of construction occurs  
6 on or after July 1, 2015.

7 (c) (i) "Computer data center" means a facility comprised of one  
8 or more buildings, which may be comprised of multiple businesses,  
9 constructed or refurbished specifically, and used primarily, to house  
10 working servers, where the facility has the following  
11 characteristics: (A) Uninterruptible power supplies, generator backup  
12 power, or both; (B) sophisticated fire suppression and prevention  
13 systems; and (C) enhanced physical security, such as: Restricted  
14 access to the facility to selected personnel; permanent security  
15 guards; video camera surveillance; an electronic system requiring  
16 passcodes, keycards, or biometric scans, such as hand scans and  
17 retinal or fingerprint recognition; or similar security features.

18 (ii) For a computer data center comprised of multiple buildings,  
19 each separate building constructed or refurbished specifically, and  
20 used primarily, to house working servers is considered a computer  
21 data center if it has all of the characteristics listed in (c) (i) (A)  
22 through (C) of this subsection (~~((+6))~~) (5).

23 (iii) A facility comprised of one building or more than one  
24 building must have a combined square footage of at least one hundred  
25 thousand square feet.

26 (d) "Electronic data storage and data management services"  
27 include, but are not limited to: Providing data storage and backup  
28 services, providing computer processing power, hosting enterprise  
29 software applications, and hosting web sites. The term also includes  
30 providing services such as email, web browsing and searching, media  
31 applications, and other online services, regardless of whether a  
32 charge is made for such services.

33 (e) (i) "Eligible computer data center" means a computer data  
34 center:

35 (A) Located in a rural county as defined in RCW 82.14.370; and

36 (B) Having at least twenty thousand square feet dedicated to  
37 housing working servers (~~(, where the server space has not previously~~  
38 ~~been dedicated to housing working servers; and~~

39 ~~(C) For which the commencement of construction occurs:~~

40 ~~(I) After March 31, 2010, and before July 1, 2011;~~

1 ~~(II) After March 31, 2012, and before July 1, 2015; or~~  
2 ~~(III) After June 30, 2015, and before July 1, 2025).~~

3 (ii) ~~((For purposes of this section, "commencement of~~  
4 ~~construction" means the date that a building permit is issued under~~  
5 ~~the building code adopted under RCW 19.27.031 for construction of the~~  
6 ~~computer data center. The construction of a computer data center~~  
7 ~~includes the expansion, renovation, or other improvements made to~~  
8 ~~existing facilities, including leased or rented space. "Commencement~~  
9 ~~of construction" does not include soil testing, site clearing and~~  
10 ~~grading, site preparation, or any other related activities that are~~  
11 ~~initiated before the issuance of a building permit for the~~  
12 ~~construction of the foundation of a computer data center.~~

13 ~~(iii) With respect to facilities in existence on April 1, 2010,~~  
14 ~~that are expanded, renovated, or otherwise improved after March 31,~~  
15 ~~2010, or facilities in existence on April 1, 2012, that are expanded,~~  
16 ~~renovated, or otherwise improved after March 31, 2012, or facilities~~  
17 ~~in existence on July 1, 2015, that are expanded, renovated, or~~  
18 ~~otherwise improved after June 30, 2015, an eligible computer data~~  
19 ~~center includes only the portion of the computer data center meeting~~  
20 ~~the requirements in (e)(i)(B) of this subsection (6)) Facilities in~~  
21 ~~existence before January 1, 2019, that meet the requirements of~~  
22 ~~(c)(i), (ii), and (iii) of this subsection and have at least twenty~~  
23 ~~thousand square feet dedicated to housing working servers, qualify as~~  
24 ~~an eligible computer data center for charges made for labor,~~  
25 ~~services, and material related to installations after December 31,~~  
26 ~~2019, for eligible power infrastructure and eligible server~~  
27 ~~equipment.~~

28 ~~(iii) Movable or fixed stand-alone, prefabricated, or modular~~  
29 ~~units, including intermodal shipping containers do not qualify as~~  
30 ~~"eligible computer data centers".~~

31 (f) "Eligible power infrastructure" means all fixtures and  
32 equipment owned by a qualifying business or qualifying tenant and  
33 necessary for the transformation, distribution, or management of  
34 electricity that is required to operate eligible server equipment  
35 within an eligible computer data center. The term includes  
36 generators; wiring; cogeneration equipment; and associated fixtures  
37 and equipment, such as electrical switches, batteries, and  
38 distribution, testing, and monitoring equipment. The term does not  
39 include substations.

40 (g) "Eligible server equipment" means:

1 (i) For a qualifying business whose computer data center  
2 qualifies as an eligible computer data center under (e) (i) ~~((C)-(I))~~  
3 (B) of this subsection ~~((6))~~ (5), the ~~((original))~~ server equipment  
4 installed and put into regular use in an eligible computer data  
5 center on or after April 1, 2010, and before January 1, ~~(2026,~~ and  
6 ~~replacement server equipment.~~ For purposes of this subsection  
7 ~~(6) (g) (i), "replacement server equipment" means server equipment~~  
8 ~~that:~~

9 ~~(A) Replaces existing server equipment, if the sale or use of the~~  
10 ~~server equipment to be replaced qualified for an exemption under this~~  
11 ~~section or RCW 82.12.986; and~~

12 ~~(B) Is installed and put into regular use before April 1, 2018.~~

13 ~~(ii) For a qualifying business whose computer data center~~  
14 ~~qualifies as an eligible computer data center under (e) (i) (C) (II) of~~  
15 ~~this subsection (6), "eligible server equipment" means the original~~  
16 ~~server equipment installed in an eligible computer data center on or~~  
17 ~~after April 1, 2012, and before January 1, 2026, and replacement~~  
18 ~~server equipment. For purposes of this subsection (6) (g) (ii),~~  
19 ~~"replacement server equipment" means server equipment that:~~

20 ~~(A) Replaces existing server equipment, if the sale or use of the~~  
21 ~~server equipment to be replaced qualified for an exemption under this~~  
22 ~~section or RCW 82.12.986; and~~

23 ~~(B) Is installed and put into regular use before April 1, 2024.~~

24 ~~(iii) (A) For a qualifying business whose computer data center~~  
25 ~~qualifies as an eligible computer data center under (e) (i) (C) (III) of~~  
26 ~~this subsection (6), "eligible server equipment" means the original~~  
27 ~~server equipment installed in a building within an eligible computer~~  
28 ~~data center on or after July 1, 2015, and replacement server~~  
29 ~~equipment. Server equipment installed in movable or fixed stand-~~  
30 ~~alone, prefabricated, or modular units, including intermodal shipping~~  
31 ~~containers, is not "directly installed in a building." For purposes~~  
32 ~~of this subsection (6) (g) (iii) (A), "replacement server equipment"~~  
33 ~~means server equipment that replaces existing server equipment, if~~  
34 ~~the sale or use of the server equipment to be replaced qualified for~~  
35 ~~an exemption under this section or RCW 82.12.986; and~~

36 ~~(B) Is installed and put into regular use no later than twelve~~  
37 ~~years after the date of the certificate of occupancy.~~

38 ~~(iv))~~ 2030.

39 (ii) For a qualifying tenant who leases space within an eligible  
40 computer data center, "eligible server equipment" means the

1 (~~(original)~~) server equipment installed within the space it leases  
2 from an eligible computer data center on or after April 1, 2010, and  
3 before January 1, (~~(2026, and replacement server equipment)~~) 2030.  
4 (~~(For purposes of this subsection (6)(g)(iv), "replacement server~~  
5 ~~equipment" means server equipment that:~~

6 ~~(A) Replaces existing server equipment, if the sale or use of the~~  
7 ~~server equipment to be replaced qualified for an exemption under this~~  
8 ~~section or RCW 82.12.986;~~

9 ~~(B) Is installed and put into regular use before April 1, 2024;~~  
10 and

11 ~~(C) For tenants leasing space in an eligible computer data center~~  
12 ~~built after July 1, 2015, is installed and put into regular use no~~  
13 ~~later than twelve years after the date of the certificate of~~  
14 ~~occupancy.)~~

15 (h) "Qualifying business" means a business entity that exists for  
16 the primary purpose of engaging in commercial activity for profit and  
17 that is the owner of an eligible computer data center. The term does  
18 not include the state or federal government or any of their  
19 departments, agencies, and institutions; tribal governments;  
20 political subdivisions of this state; or any municipal, quasi-  
21 municipal, public, or other corporation created by the state or  
22 federal government, tribal government, municipality, or political  
23 subdivision of the state.

24 (i) "Qualifying tenant" means a business entity that exists for  
25 the primary purpose of engaging in commercial activity for profit and  
26 that leases space from a qualifying business within an eligible  
27 computer data center. The term does not include the state or federal  
28 government or any of their departments, agencies, and institutions;  
29 tribal governments; political subdivisions of this state; or any  
30 municipal, quasi-municipal, public, or other corporation created by  
31 the state or federal government, tribal government, municipality, or  
32 political subdivision of the state. The term also does not include a  
33 lessee of space in an eligible computer data center under (e)(i)  
34 (~~((C)-(I))~~) (B) of this subsection (~~((6))~~) (5), if the lessee and  
35 lessor are affiliated and:

36 (i) That space will be used by the lessee to house server  
37 equipment that replaces server equipment previously installed and  
38 operated in that eligible computer data center by the lessor or  
39 another person affiliated with the lessee; or

1 (ii) Prior to May 2, 2012, the primary use of the server  
2 equipment installed in that eligible computer data center was to  
3 provide electronic data storage and data management services for the  
4 business purposes of either the lessor, persons affiliated with the  
5 lessor, or both.

6 (j) "Server equipment" means the computer hardware located in an  
7 eligible computer data center and used exclusively to provide  
8 electronic data storage and data management services for internal use  
9 by the owner or lessee of the computer data center, for clients of  
10 the owner or lessee of the computer data center, or both. "Server  
11 equipment" also includes computer software necessary to operate the  
12 computer hardware. "Server equipment" does not include personal  
13 computers, the racks upon which the server equipment is installed,  
14 and computer peripherals such as keyboards, monitors, printers, and  
15 mice.

16 (6) (a) From the effective date of this section, the exemption  
17 provided in this section only applies for use by a qualifying  
18 business or qualifying tenant if they certify to the department that  
19 the project is developed under a community workforce agreement or  
20 project labor agreement, which must include payment of area standard  
21 prevailing wages and apprenticeship utilization, provided the  
22 following apply:

23 (i) The owner and the prime contractor and all of its  
24 subcontractors regardless of tier have the absolute right to select  
25 any qualified and responsible bidder for the award of contracts on a  
26 specified project without reference to the existence or nonexistence  
27 of any agreements between such bidder and any party to such project  
28 labor agreement, and only when such bidder is willing, ready, and  
29 able to become a party to, signs a letter of assent, and complies  
30 with such project labor agreement, should it be designated the  
31 successful bidder; and

32 (ii) It is understood that this is a self-contained, stand-alone  
33 agreement, and that by virtue of having become bound to such project  
34 labor agreement, neither the project contractor nor the  
35 subcontractors are obligated to sign any other local, area, or  
36 national agreement.

37 (b) For the purposes of this subsection, the terms "project labor  
38 agreement" and "community workforce agreement" mean a prehire  
39 collective bargaining agreement with one or more labor organizations  
40 that establishes the terms and conditions of employment for a



1 specific construction project and is an agreement described in Title  
2 29 U.S.C. Sec. 158(f).

3 NEW SECTION. **Sec. 6.** Section 5 of this act expires January 1,  
4 2030.

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