
SUBSTITUTE HOUSE BILL 1846

State of Washington

67th Legislature

2022 Regular Session

By House Finance (originally sponsored by Representatives Berg and Ramel)

READ FIRST TIME 02/21/22.

1 AN ACT Relating to providing a tax preference for rural and
2 nonrural data centers; amending RCW 82.08.986 and 82.12.986; adding
3 new sections to chapter 82.08 RCW; adding a new section to chapter
4 82.12 RCW; creating new sections; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that data
7 centers are a cornerstone for strong internet infrastructure that is
8 critical to the continuing prosperity of Washington's vibrant digital
9 economy.

10 (2) The legislature further finds that the data center industry
11 is experiencing explosive growth across the nation and the
12 competition among states for data center investments has increased
13 dramatically. A department of commerce study, *2018 State of the Data
14 Center Industry, An Analysis of Washington's Competitiveness*, found
15 that data center growth in rural Washington is at the lower end of
16 the growth rate experienced by other major competitive markets.

17 (3) The legislature recognizes that rural county data center
18 investments are necessary but insufficient for the state's total
19 economy and competitiveness. Washington is the only state that
20 restricts incentives geographically. As a result, data centers
21 serving urban counties requiring higher performance and that offer

1 colocation services for multiple tenants that foster technology
2 ecosystems are lost to other states, particularly neighboring Oregon.

3 (4) The legislature further finds that data centers are one of
4 the most energy-intensive building types, consuming 10 to 50 times
5 the energy per floor space of a typical commercial office building.
6 In addition, the legislature finds that it is imperative that the
7 economic expansion of data centers not result in negative
8 environmental impacts to the communities in which the data centers
9 are located. To this end, the legislature encourages data centers to
10 be good environmental stewards for their community through adopting
11 practices to mitigate negative environmental impacts of data centers,
12 such as the use of energy derived from renewable resources,
13 redirecting waste heat for alternative uses, or other industrial
14 symbiosis practices.

15 (5) The legislature therefore intends to encourage additional
16 investments in data technology facilities through expanding and
17 extending the current sales and use tax exemption for rural county
18 data centers and establishing a sales and use tax exemption pilot
19 program for data centers in counties with populations over 800,000,
20 which will in turn incentivize local economic development, increased
21 local tax revenues, and construction and trade jobs across Washington
22 through the development of additional data center facilities.

23 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
24 performance statement for the tax preferences contained in sections
25 3, 4, 5, and 6, chapter . . . , Laws of 2022 (sections 3, 4, 5, and 6
26 of this act). This performance statement is only intended to be used
27 for subsequent evaluation of the tax preferences. It is not intended
28 to create a private right of action by any party or be used to
29 determine eligibility for preferential tax treatment.

30 (2) The legislature categorizes these sales and use tax
31 exemptions on eligible server equipment and eligible power
32 infrastructure equipment at eligible computer data centers as ones
33 intended to: Induce certain designated behavior by taxpayers as
34 indicated in RCW 82.32.808(2)(a); improve industry competitiveness as
35 indicated in RCW 82.32.808(2)(b); create or retain jobs as indicated
36 in RCW 82.32.808(2)(c); and reduce structural inefficiencies in the
37 tax structure as indicated in RCW 82.32.808(2)(d).

38 (3) It is the legislature's specific public policy objective to:

1 (a) Maintain and grow the existing data center sector in
2 Washington state, and encourage development of new data center
3 facilities and refurbishment of existing data centers, thereby
4 increasing the competitiveness of Washington's tax structure, which
5 will increase or maintain construction and trade job growth in rural
6 areas, and increase local tax revenue streams.

7 (b) Improve industry competitiveness and to increase, create, or
8 retain jobs in computer data centers in counties with a population
9 over 800,000, as determined by the April 1, 2021, office of financial
10 management population estimates, thereby increasing family wage jobs.
11 It is the legislature's intent to establish a pilot program that
12 would provide a sales and use tax exemption on eligible server
13 equipment and power infrastructure installed in eligible computer
14 data centers, charges made for labor and services rendered in respect
15 to installing eligible server equipment, and for construction,
16 installation, repair, alteration, or improvement of eligible power
17 infrastructures in order to increase investment in data center
18 construction, leasing, and other investment throughout rural counties
19 and counties with a population over 800,000, as determined by the
20 April 1, 2021, office of financial management population estimates,
21 thereby growing employment in the technology industry while adding
22 real and personal property to state and local property tax rolls,
23 thereby increasing the county tax base.

24 (4) The legislature intends to extend the expiration date of the
25 tax preference. The joint legislative audit and review committee
26 shall conduct a review and determine if the tax preference is (a)
27 generating capital investment in new computer data centers,
28 refurbished data centers, or existing data centers (e.g., replacement
29 server equipment), (b) generating state and local tax collections
30 from data center investment and operations, and (c) generating or
31 maintaining construction and trade jobs in the state. The review must
32 factor in changing economic conditions.

33 (5) In order to obtain the data necessary to perform the review
34 in subsection (4) of this section, the joint legislative audit and
35 review committee may refer to any available data source, including
36 data available from the department of revenue regarding rural county
37 property tax assessments and employment data from the employment
38 security department.

1 **Sec. 3.** RCW 82.08.986 and 2017 c 135 s 26 are each amended to
2 read as follows:

3 (1) (a) An exemption from the tax imposed by RCW 82.08.020 is
4 provided for sales to qualifying businesses and to qualifying tenants
5 of eligible server equipment to be installed, without intervening
6 use, in an eligible computer data center to which a valid exemption
7 certificate applies, and to charges made for labor and services
8 rendered in respect to installing eligible server equipment. (~~Until~~
9 ~~January 1, 2026, the~~)

10 (b) This exemption also applies to sales to qualifying businesses
11 and to qualifying tenants of eligible power infrastructure, including
12 labor and services rendered in respect to constructing, installing,
13 repairing, altering, or improving eligible power infrastructure at an
14 eligible computer data center for which an exemption certificate has
15 been issued.

16 (c) No new exemption certificates may be issued on or after July
17 1, 2036.

18 (d) The exemptions provided in this section expire July 1, 2048.

19 (e) Each calendar year, the department may issue no more than six
20 certificates for data centers which qualify through refurbishment.
21 Certificates are available for refurbished data centers on a first-
22 in-time basis based on the date the application required under this
23 section is received by the department. Each qualifying business may
24 apply for only one certificate for a refurbished data center each
25 calendar year.

26 (2) (a) In order to (~~claim the exemption~~) obtain an exemption
27 certificate under this section, a qualifying business or a qualifying
28 tenant must submit an application to the department for an exemption
29 certificate. The application must include the information necessary,
30 as required by the department, to determine that a business or tenant
31 qualifies for the exemption under this section. The department must
32 issue exemption certificates to qualifying businesses and qualifying
33 tenants. The department may assign a unique identification number to
34 each exemption certificate issued under this section.

35 (b) A qualifying business or a qualifying tenant claiming the
36 exemption under this section must present the seller with an
37 exemption certificate in a form and manner prescribed by the
38 department. The seller must retain a copy of the certificate for the
39 seller's files.

1 (c) With respect to computer data centers for which the
2 commencement of construction occurs after July 1, 2015, but before
3 July 1, 2019, the exemption provided in this section is limited to no
4 more than eight computer data centers, with total eligible data
5 centers provided under this section limited to twelve from July 1,
6 2015, through ~~((July 1, 2025))~~ the effective date of this section.
7 Tenants of qualified data centers do not constitute additional data
8 centers under the limit. The exemption is available on a first-in-
9 time basis based on the date the application required under this
10 section is received by the department.

11 (d) The exemption certificate is effective on the date the
12 application is received by the department, which is deemed to be the
13 date of issuance. Only purchases on or after the date of issuance
14 qualify for the exemption under this section. No tax refunds are
15 authorized for purchases made before the effective date of the
16 exemption certificate.

17 (e) Exemption certificates expire two years after the date of
18 issuance, unless construction has been commenced.

19 (3) (a) Within six years of the date that the department issued an
20 exemption certificate under this section to a qualifying business or
21 a qualifying tenant with respect to an eligible computer data center,
22 the qualifying business or qualifying tenant must establish that net
23 employment at the eligible computer data center has increased by a
24 minimum of:

25 (i) Thirty-five family wage employment positions; or, if lower

26 (ii) Three family wage employment positions for each twenty
27 thousand square feet of space or less that is newly dedicated to
28 housing working servers at the eligible computer data center. For
29 qualifying tenants, the number of family wage employment positions
30 that must be increased under this subsection (3) (a) (ii) is based only
31 on the space occupied by the qualifying tenant in the eligible
32 computer data center.

33 (b) In calculating the net increase in family wage employment
34 positions:

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

38 (A) The net increase, since the date of issuance of the
39 qualifying business's exemption certificate, in family wage
40 employment positions employed by qualifying tenants; and

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

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

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

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

9 (B) The portion of the net increase in family wage employment
10 positions to be counted under this subsection (3)(b)(ii) by each
11 qualifying tenant (~~must be in proportion to the amount of space in~~
12 ~~the eligible computer data center occupied by the qualifying tenant~~
13 ~~compared to the total amount of space in the eligible computer data~~
14 ~~center occupied by all qualifying tenants)) is equal to the net
15 increase in family wage employment positions at the eligible computer
16 data center as described in (b)(ii)(A)(I) and (II) of this subsection
17 (3), multiplied by the percentage of total space within the eligible
18 computer data center occupied by the qualifying tenant. Any
19 combination of qualifying business and qualifying tenant family wage
20 employment positions may meet this requirement.~~

21 (C)(I) In the instance of an existing data center facility that
22 was ineligible, regardless of the date of commencement of
23 construction, that later obtains an exemption certificate under this
24 section, the data center may count the existing employment positions
25 that are dedicated to the data center toward the family wage
26 employment position requirements if the employment positions meet the
27 requirements of a family wage employment position as described in
28 (c)(i)(B) and (C) of this subsection (3).

29 (II) In the instance of the refurbishment of an existing data
30 center that previously qualified under the data center program, the
31 data center may count the existing employment positions dedicated to
32 the data center toward the family wage employment position
33 requirements if the employment positions meet the requirements of a
34 family wage employment position as described in (c)(i)(B) and (C) of
35 this subsection (3).

36 (c)(i) For purposes of this subsection(~~(7)~~):

37 (A) For exemption certificates issued before the effective date
38 of this section, family wage employment positions are new permanent
39 employment positions requiring forty hours of weekly work, or their
40 equivalent, on a full-time basis at the eligible computer data center

1 and receiving a wage equivalent to or greater than one hundred fifty
2 percent of the per capita personal income of the county in which the
3 qualified project is located as published by the employment security
4 department. The per capita personal income to be used to determine
5 qualification for any year is the amount that was established for the
6 immediate prior year.

7 (B) For exemption certificates issued on or after the effective
8 date of this section, family wage employment positions are new
9 permanent employment positions requiring 40 hours of weekly work, or
10 their equivalent, on a full-time basis at the eligible computer data
11 center and receiving a wage equivalent to or greater than 125 percent
12 of the per capita personal income of the county in which the
13 qualified project is located as published by the employment security
14 department. The per capita personal income to be used to determine
15 qualification for any year is the amount that was established for the
16 immediate prior year.

17 (C) An employment position may not be counted as a family wage
18 employment position unless the employment position is entitled to
19 health insurance coverage provided by the employer of the employment
20 position. ((For purposes of this subsection (3)(c), "new))

21 (D) "New permanent employment position" means an employment
22 position that did not exist or that had not previously been filled as
23 of the date that the department issued an exemption certificate to
24 the ((owner)) qualifying business or qualifying tenant of an eligible
25 computer data center, as the case may be.

26 (ii)(A) Family wage employment positions include positions filled
27 by employees of the ~~((owner of the eligible computer data center))~~
28 qualifying business and by employees of qualifying tenants.

29 (B) Family wage employment positions also include individuals
30 performing work at an eligible computer data center as an independent
31 contractor hired by the owner of the eligible computer data center or
32 as an employee of an independent contractor hired by the owner of the
33 eligible computer data center, if the work is necessary for the
34 operation of the computer data center, such as security and building
35 maintenance, and provided that all of the applicable requirements in
36 (c)(i) of this subsection (3) are met.

37 (d) ~~((All))~~ For a qualifying business or qualifying tenant that
38 does not meet the requirements of this subsection (3), all or a
39 portion of previously exempted sales and use taxes ((are)) may be
40 immediately due and payable ((for a qualifying business or qualifying

1 ~~tenant that does not meet the requirements of this subsection)) and~~
2 any exemption certificate issued to that qualifying business or
3 qualifying tenant under this section may be canceled. The department
4 may provide exceptions or extensions to the requirements in this
5 subsection (3) due to an extraordinary event or circumstance beyond
6 the control of the qualifying business or qualifying tenant
7 including, but not limited to, a declaration of an economic
8 recession, pandemic, natural disaster, labor strike, or technological
9 advancements that affect the operations of data centers. Any
10 repayment of taxes triggered by the failure of a qualifying business
11 or qualifying tenant to meet the requirements of this subsection (3)
12 must be calculated proportionally based on percentage of requirements
13 not met.

14 (4) For exemption certificates issued on or after the effective
15 date of this section:

16 (a) Within three years after being placed in service, the
17 qualifying business operating a newly constructed data center must
18 certify to the department that it has attained certification under
19 one or more of the following sustainable design or green building
20 standards:

21 (i) BREEAM for new construction or BREEAM in-use;

22 (ii) Energy star;

23 (iii) Envision;

24 (iv) ISO 50001-energy management;

25 (v) LEED for building design and construction or LEED for
26 operations and maintenance;

27 (vi) Green globes for new construction or green globes for
28 existing buildings;

29 (vii) UL 3223; or

30 (viii) Other reasonable standards approved by the department.

31 (b) The department may require qualifying businesses and
32 qualifying tenants to submit records necessary to verify the
33 requirements under (a) of this subsection have been met.

34 (c) For a qualifying business or qualifying tenant that does not
35 meet the requirements of (a) of this subsection:

36 (i) All or a portion of previously exempted sales and use taxes
37 may be immediately due and payable. The department may provide
38 exceptions or extensions to the requirements of this subsection due
39 to an extraordinary event or circumstance beyond the control of the
40 qualifying business or qualifying tenant including, but not limited

1 to, a declaration of an economic recession, pandemic, natural
2 disaster, labor strike, or technological advancements affecting data
3 center operations.

4 (ii) An additional 10 percent penalty is added to the amounts
5 described in (c) (i) of this subsection.

6 (5) A qualifying business or a qualifying tenant claiming the
7 exemption under this section is encouraged to take direct steps to
8 adopt practices to mitigate negative environmental impacts resulting
9 from expanded use of data centers, including through:

10 (a) Coordinating with the industrial waste coordination program
11 established under RCW 43.31.625 to identify and provide technical
12 assistance in implementing industrial symbiosis projects;

13 (b) To the extent possible, procuring or contracting for power
14 from renewable sources;

15 (c) Adopting practices to improve the energy efficiency of
16 existing data centers, including through upgrading and consolidating
17 technology, managing data center airflow, and adjusting and improving
18 heating, ventilation, and air conditioning systems; and

19 (d) Taking actions to conserve, reuse, and replace water. This
20 includes using water efficient fixtures and practices; treating,
21 infiltrating, and harvesting rainwater; recycling water before
22 discharging; partnering with local water utilities to use discharged
23 water for irrigation and other water conservation purposes; using
24 reclaimed water where possible for data center operations; and
25 supporting water restoration in local watersheds.

26 (6) A qualifying business or a qualifying tenant claiming an
27 exemption under this section or RCW 82.12.986 must complete an annual
28 tax performance report with the department as required under RCW
29 82.32.534. The report must identify construction firm names and
30 employment levels used for constructing, renovating, refurbishing, or
31 remodeling the data centers.

32 ~~((5)) (7)(a) ((The exemption provided in this section does not~~
33 ~~apply to:~~

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

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

1 ~~(b) If a person claims an exemption under this section and~~
2 ~~subsequently receives the benefit of the deferral program under~~
3 ~~chapter 82.60 RCW on either the construction, renovation, or~~
4 ~~expansion of a structure or structures used as a computer data center~~
5 ~~or machinery or equipment used in a computer data center, the person~~
6 ~~must repay the amount of taxes exempted under this section. Interest~~
7 ~~as provided in chapter 82.32 RCW applies to amounts due under this~~
8 ~~section until paid in full.~~

9 (6)) The certificate holder may not at any time assign or
10 transfer a certificate without the prior written consent of the
11 department. The department must allow certificate transfers if the
12 certificate holder meets the following requirements:

13 (i) The certificate assignee or transferee is qualified to do
14 business in the state;

15 (ii) The assignee or transferee acknowledges the transfer of the
16 certificate in writing;

17 (iii) The assignee or transferee agrees to keep and perform all
18 the terms of the certificates; and

19 (iv) An assignment or transfer of the certificate is to an entity
20 that:

21 (A) Controls, is controlled by, or under common control with, the
22 certificate holder;

23 (B) Acquires all or substantially all of the stock or assets of
24 the certificate holder; or

25 (C) Is the resulting entity of a merger or consolidation with the
26 certificate holder.

27 (b) In the event the assignee or transferee acquires eligible
28 server equipment in a qualifying asset sale under (a)(iv)(B) of this
29 subsection, the purchaser shall be deemed to purchase the eligible
30 server equipment pursuant to the transferred certificate.

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

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

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

1 (c) "Certificate of occupancy" means:

2 (i) For a newly constructed eligible computer data center, the
3 certificate of occupancy issued by a local governing authority for
4 the structure or structures which comprise the eligible computer data
5 center; or

6 (ii) For renovations of an eligible computer data center, the
7 certificate of occupancy issued by a local governing authority for
8 the renovated structure or structures that comprise the eligible
9 computer data center.

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

21 (ii) For a computer data center comprised of multiple buildings,
22 each separate building constructed or refurbished specifically, and
23 used primarily, to house working servers is considered a computer
24 data center if it has all of the characteristics listed in ~~((e))~~
25 (d)(i) (A) through (C) of this subsection ~~((6))~~ (8).

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

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

36 ~~((e))~~ (f)(i) "Eligible computer data center" means a computer
37 data center:

38 (A) Located in a county that as of the effective date of this
39 section meets the definition of a rural county as defined in RCW
40 82.14.370;

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

4 (C) For which the commencement of construction occurs:

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

6 (II) After March 31, 2012, and before July 1, 2015; or

7 (III) After June 30, 2015, and before July 1, (~~(2025))~~ 2035.

8 (ii) For purposes of this section, "commencement of construction"
9 means the date that a building permit is issued under the building
10 code adopted under RCW 19.27.031 for construction of the computer
11 data center. The construction of a computer data center includes the
12 expansion, renovation, or (~~(other improvements made to))~~
13 refurbishment of existing facilities regardless of whether the
14 existing facility was previously ineligible and regardless of whether
15 commencement of construction of the existing facility occurred
16 outside of the dates listed in (f)(i)(C)(I) through (III) of this
17 subsection, including leased or rented space. "Commencement of
18 construction" does not include soil testing, site clearing and
19 grading, site preparation, or any other related activities that are
20 initiated before the issuance of a building permit for the
21 construction of the foundation of a computer data center. If no
22 building permit is required for renovation or refurbishment, then the
23 date that renovation or refurbishment begins is the "commencement of
24 construction."

25 (~~(iii) With respect to facilities in existence on April 1, 2010,~~
26 ~~that are expanded, renovated, or otherwise improved after March 31,~~
27 ~~2010, or facilities in existence on April 1, 2012, that are expanded,~~
28 ~~renovated, or otherwise improved after March 31, 2012, or facilities~~
29 ~~in existence on July 1, 2015, that are expanded, renovated, or~~
30 ~~otherwise improved after June 30, 2015, an eligible computer data~~
31 ~~center includes only the portion of the computer data center meeting~~
32 ~~the requirements in (e)(i)(B) of this subsection (6).~~

33 ~~(f))~~ (g) "Eligible power infrastructure" means all fixtures and
34 equipment owned by a qualifying business or qualifying tenant and
35 necessary for the transformation, distribution, or management of
36 electricity that is required to operate eligible server equipment
37 within an eligible computer data center. The term includes
38 generators; wiring; cogeneration equipment; and associated fixtures
39 and equipment, such as electrical switches, batteries, and

1 distribution, testing, and monitoring equipment. The term does not
2 include substations.

3 ~~((g))~~ (h) "Eligible server equipment" means:

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

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

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

15 (ii) For a qualifying business whose computer data center
16 qualifies as an eligible computer data center under ~~((e))~~ (f)
17 (i)(C)(II) of this subsection ~~((6))~~ (8), "eligible server
18 equipment" means the original server equipment installed in an
19 eligible computer data center on or after April 1, 2012, and before
20 January 1, 2026, and replacement server equipment. For purposes of
21 this subsection ~~((6)(g))~~ (8)(h)(ii), "replacement server equipment"
22 means server equipment that:

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

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

27 (iii) ~~((A))~~ For a qualifying business whose computer data center
28 qualifies as an eligible computer data center under ~~((e))~~ (f)
29 (i)(C)(III) of this subsection ~~((6))~~ (8), "eligible server
30 equipment" means the original server equipment installed in a
31 building within an eligible computer data center on or after July 1,
32 2015, and replacement server equipment. Server equipment installed in
33 movable or fixed stand-alone, prefabricated, or modular units,
34 including intermodal shipping containers, is not "directly installed
35 in a building." For purposes of this subsection ~~((6)(g))~~ (8)(h)
36 (iii) ~~((A))~~, "replacement server equipment" means server equipment
37 that ~~((replaces))~~:

38 (A)(I) Replaces existing server equipment, if the sale or use of
39 the server equipment to be replaced qualified for an exemption under
40 this section or RCW 82.12.986; or

1 (II) Replaces existing server equipment in a computer data center
2 that meets the following requirements: Was ineligible before the
3 effective date of this section for the exemptions provided under this
4 section and RCW 82.12.986; has been refurbished; and to which a valid
5 exemption certificate applies; and

6 (B) Is installed and put into regular use no later than twelve
7 years after the date of the certificate of occupancy or completion of
8 refurbishment of the computer data center.

9 (iv) For a qualifying tenant who leases space within an eligible
10 computer data center, "eligible server equipment" means the original
11 server equipment installed within the space it leases from an
12 eligible computer data center with an exemption certificate on or
13 after April 1, 2010, ~~((and before January 1, 2026,))~~ and replacement
14 server equipment. For purposes of this subsection ~~((6)(g))~~ (8)(h)
15 (iv), "replacement server equipment" means server equipment that:

16 (A) (I) Replaces existing server equipment, if the sale or use of
17 the server equipment to be replaced qualified for an exemption under
18 this section or RCW 82.12.986; or

19 (II) Replaces existing server equipment in a computer data center
20 that meets the following requirements: Was ineligible before the
21 effective date of this section for the exemptions provided under this
22 section and RCW 82.12.986; has been refurbished; and to which a valid
23 exemption certificate applies; and

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

26 ~~(C) For tenants leasing space in an eligible computer data center~~
27 ~~built after July 1, 2015, is installed and put into regular use no~~
28 ~~later than twelve years after the date of the certificate of~~
29 ~~occupancy)) no later than 12 years after the date of the certificate~~
30 ~~of occupancy or completion of refurbishment of the computer data~~
31 ~~center.~~

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

1 ~~((i))~~ (j) "Qualifying tenant" means a business entity that
2 exists for the primary purpose of engaging in commercial activity for
3 profit and that leases space from a qualifying business within an
4 eligible computer data center. The term does not include the state or
5 federal government or any of their departments, agencies, and
6 institutions; tribal governments; political subdivisions of this
7 state; or any municipal, quasi-municipal, public, or other
8 corporation created by the state or federal government, tribal
9 government, municipality, or political subdivision of the state. The
10 term also does not include a lessee of space in an eligible computer
11 data center under ~~((e))~~ (f)(i)(C)(I) of this subsection ~~((6))~~
12 (8), if the lessee and lessor are affiliated and:

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

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

22 ~~((j))~~ (k) (i) "Refurbished" or "refurbishment" means a
23 substantial improvement to an eligible computer data center to update
24 or modernize servers, server space, ventilation, or power
25 infrastructure in an eligible computer data center.

26 (ii) For a qualifying computer data center to be considered
27 refurbished, the qualifying business must certify, in a form and
28 manner prescribed by the department, that the refurbishment of an
29 eligible computer data center is complete. The refurbishment is
30 considered complete on the date that the improved portion of the
31 computer data center is operationally complete and able to be used
32 for its intended purpose.

33 (l) "Server equipment" means the computer hardware located in an
34 eligible computer data center and used exclusively to provide
35 electronic data storage and data management services, including cloud
36 services, for internal use by the owner or lessee of the computer
37 data center, for clients of the owner or lessee of the computer data
38 center, or both. "Server equipment" also includes computer software
39 necessary to operate the computer hardware. "Server equipment" does
40 not include personal computers, the racks upon which the server

1 equipment is installed, and computer peripherals such as keyboards,
2 monitors, printers, and mice.

3 (7) This section expires July 1, 2048.

4 **Sec. 4.** RCW 82.12.986 and 2015 3rd sp.s. c 6 s 303 are each
5 amended to read as follows:

6 (1) (a) An exemption from the tax imposed by RCW 82.12.020 is
7 provided for the use by qualifying businesses or qualifying tenants
8 of eligible server equipment to be installed, without intervening
9 use, in an eligible computer data center for which an exemption
10 certificate under RCW 82.08.986 has been issued, and to the use of
11 labor and services rendered in respect to installing such server
12 equipment.

13 ~~((The))~~ (b) Until July 1, 2048, this exemption also applies to
14 the use by a qualifying business or qualifying tenant of eligible
15 power infrastructure, including labor and services rendered in
16 respect to installing, repairing, altering, or improving such
17 infrastructure at an eligible computer data center for which an
18 exemption certificate under RCW 82.08.986 has been issued.

19 (c) The exemptions provided in this section expire July 1, 2048.

20 (2) A qualifying business or a qualifying tenant is not eligible
21 for the exemption under this section unless the department issued an
22 exemption certificate to the qualifying business or a qualifying
23 tenant for the exemption provided in RCW 82.08.986.

24 (3) ~~((a) The exemption provided in this section does not apply~~
25 ~~to:~~

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

31 ~~(ii) Any person affiliated with a person within the scope of~~
32 ~~(a)(i) of this subsection (3).~~

33 ~~(b) If a person has received the benefit of the exemption under~~
34 ~~this section and subsequently receives the benefit of the deferral~~
35 ~~program under chapter 82.60 RCW on either the construction,~~
36 ~~renovation, or expansion of a structure or structures used as a~~
37 ~~computer data center or machinery or equipment used in a computer~~
38 ~~data center, the person must repay the amount of taxes exempted under~~
39 ~~this section. Interest as provided in chapter 82.32 RCW applies to~~

1 ~~amounts due under this subsection (3)(b) until paid in full. A person~~
2 ~~is not required to repay taxes under this subsection with respect to~~
3 ~~property and services for which the person is required to repay taxes~~
4 ~~under RCW 82.08.986(5).~~

5 (4)) The definitions and requirements in RCW 82.08.986 apply to
6 this section.

7 (4) This section expires July 1, 2048.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.08
9 RCW to read as follows:

10 (1)(a) An exemption from the tax imposed by RCW 82.08.020 is
11 provided for sales to qualifying businesses and to qualifying tenants
12 of eligible server equipment to be installed, without intervening
13 use, in an eligible computer data center to which a valid exemption
14 certificate applies, and to charges made for labor and services
15 rendered in respect to installing eligible server equipment.

16 (b) The exemption also applies to sales to qualifying businesses
17 and to qualifying tenants of eligible power infrastructure, including
18 labor, material, equipment, and services rendered in respect to
19 constructing, installing, repairing, altering, or improving eligible
20 power infrastructure at an eligible computer data center for which an
21 exemption certificate has been issued.

22 (c) No new exemption certificates may be issued on or after July
23 1, 2028.

24 (d) The exemptions provided in this section expire July 1, 2038.

25 (2)(a)(i) In order to obtain an exemption, a qualifying business
26 must be located in a county with a population over 800,000, as
27 determined by the April 1, 2021, office of financial management
28 population estimates and must submit an application to the department
29 for an exemption certificate. The application must include the
30 information necessary, as required by the department, to determine
31 that a business or tenant qualifies for the exemption under this
32 section. The department must issue exemption certificates to
33 qualifying businesses and qualifying tenants. The department may
34 assign a unique identification number to each exemption certificate
35 issued under this section.

36 (ii) For the purposes of demonstrating that the requirements of
37 this subsection (2)(a) are met, a qualifying business must submit
38 records of available power for customers at the time of the
39 application for the exemption under this section. The qualifying

1 business must demonstrate that it has a minimum of 1.5 megawatts of
2 available power. The qualifying business must provide requests for
3 proposals, pricing offered, and marketing materials associated with
4 the requirements of this subsection, as required by the department,
5 as supporting documentation that the requirements of this subsection
6 (2)(a) have been met.

7 (b) A qualifying business or a qualifying tenant claiming the
8 exemption under this section must present the seller with an
9 exemption certificate in a form and manner prescribed by the
10 department. The seller must retain a copy of the certificate for the
11 seller's files.

12 (c)(i) The exemptions provided in this section are limited to
13 qualifying businesses or tenants, and the department is authorized to
14 approve:

15 (A) Six applications to obtain the exemptions for qualifying
16 businesses in the first calendar year of the exemption; and

17 (B) Six applications to obtain the exemptions for qualifying
18 businesses in each year, calendar year three through calendar year
19 six, of the exemption.

20 (ii) The exemption is available on a first-in-time basis based on
21 the date the application required under this section is received by
22 the department.

23 (d) The exemption certificate is effective on the date the
24 application is received by the department, which is deemed to be the
25 date of issuance. Only purchases on or after the date of issuance
26 qualify for the exemption under this section. No tax refunds are
27 authorized for purchases made before the effective date of the
28 exemption certificate.

29 (e) Exemption certificates expire two years after the date of
30 issuance, unless construction has been commenced.

31 (f) A qualifying tenant must contract for a minimum electrical
32 capacity of 150 kilowatts for server and computer equipment in a
33 qualifying business. Tenants that previously qualified under RCW
34 82.08.986 or 82.12.986 must reapply if they intend to expand into a
35 qualifying business.

36 (3)(a) Within six years of the date that the department issued an
37 exemption certificate under this section to a qualifying business or
38 a qualifying tenant with respect to an eligible computer data center,
39 the qualifying business or qualifying tenant must establish that net
40 employment at the eligible computer data center has increased by a

1 minimum of three family wage employment positions for each
2 incremental increase of 20,000 square feet of space that is newly
3 dedicated to housing working servers at the eligible computer data
4 center. For qualifying tenants, the number of family wage employment
5 positions that must be increased under this subsection (3)(a) is
6 based only on the space occupied by the qualifying tenant in the
7 eligible computer data center.

8 (b) In calculating the number of family wage employment
9 positions:

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

13 (A) The net increase, since the date of issuance of the
14 qualifying business's exemption certificate, in family wage
15 employment positions employed by qualifying tenants; and

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

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

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

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

24 (B) The portion of the net increase in family wage employment
25 positions to be counted under this subsection (3)(b)(ii) by each
26 qualifying tenant is equal to the net increase in family wage
27 employment positions at the eligible computer data center as
28 described in (b)(ii)(A)(I) and (II) of this subsection (3),
29 multiplied by the percentage of total space within the eligible
30 computer data center occupied by the qualifying tenant. Any
31 combination of qualifying business and qualifying tenant family wage
32 employment positions may meet this requirement.

33 (c)(i) For purposes of this subsection:

34 (A) For exemption certificates issued on or after the effective
35 date of this section, family wage employment positions are new
36 permanent employment positions requiring 40 hours of weekly work, or
37 their equivalent, on a full-time basis at the eligible computer data
38 center and receiving a wage equivalent to or greater than 125 percent
39 of the per capita personal income of the county in which the
40 qualified project is located as published by the employment security

1 department. The per capita personal income to be used to determine
2 qualification for any year is the amount that was established for the
3 immediate prior year.

4 (B) An employment position may not be counted as a family wage
5 employment position unless the employment position is entitled to
6 health insurance coverage provided by the employer of the employment
7 position.

8 (C) "New permanent employment position" means an employment
9 position that did not exist or that had not previously been filled as
10 of the date that the department issued an exemption certificate to
11 the qualifying business or qualifying tenant of an eligible computer
12 data center, as the case may be.

13 (ii)(A) Family wage employment positions include positions filled
14 by employees of the qualifying business and by employees of
15 qualifying tenants.

16 (B) Family wage employment positions also include individuals
17 performing work at an eligible computer data center as an independent
18 contractor hired by the owner of the eligible computer data center or
19 as an employee of an independent contractor hired by the owner of the
20 eligible computer data center, if the work is necessary for the
21 operation of the computer data center, such as security and building
22 maintenance, and provided that all of the requirements in (c)(i) of
23 this subsection (3) are met.

24 (d) For a qualifying business or qualifying tenant that does not
25 meet the requirements of this subsection (3), all or a portion of
26 previously exempted sales and use taxes may be immediately due and
27 payable and any exemption certificate issued to that qualifying
28 business or qualifying tenant under this section may be canceled. The
29 department may provide exceptions or extensions to the requirements
30 in RCW 82.08.986 due to an extraordinary event or circumstance beyond
31 the control of the qualifying business or qualifying tenant
32 including, but not limited to, a declaration of an economic
33 recession, pandemic, natural disaster, labor strike, or technological
34 advancements that affect the operations of data centers. Any
35 repayment of taxes triggered by the failure of a qualifying business
36 or qualifying tenant to meet the requirements of (a) of this
37 subsection must be calculated proportionally based on percentage of
38 requirements not met.

39 (4) For exemption certificates issued on or after the effective
40 date of this section:

1 (a) Within three years after being placed in service, the
2 qualifying business operating a newly constructed data center must
3 certify to the department that it has attained certification under
4 one or more of the following sustainable design or green building
5 standards:

6 (i) BREEAM for new construction or BREEAM in-use;

7 (ii) Energy star;

8 (iii) Envision;

9 (iv) ISO 50001-energy management;

10 (v) LEED for building design and construction or LEED for
11 operations and maintenance;

12 (vi) Green globes for new construction or green globes for
13 existing buildings;

14 (vii) UL 3223; or

15 (viii) Other reasonable standards approved by the department.

16 (b) The department may require qualifying businesses and
17 qualifying tenants to submit records necessary to verify the
18 requirements under (a) of this subsection have been met.

19 (c) For a qualifying business or qualifying tenant that does not
20 meet the requirements of (a) of this subsection:

21 (i) All or a portion of previously exempted sales and use taxes
22 may be immediately due and payable. The department may provide
23 exceptions or extensions to the requirements of (a) of this
24 subsection due to an extraordinary event or circumstance beyond the
25 control of the qualifying business or qualifying tenant including,
26 but not limited to, a declaration of an economic recession, pandemic,
27 natural disaster, labor strike, or technological advancements
28 affecting data center operations.

29 (ii) An additional 10 percent penalty is added to the amounts
30 described in (c) (i) of this subsection.

31 (5) A qualifying business or a qualifying tenant claiming the
32 exemption under this section is encouraged to take direct steps to
33 adopt practices to mitigate negative environmental impacts resulting
34 from expanded use of data centers, including through:

35 (a) Coordinating with the industrial waste coordination program
36 established under RCW 43.31.625 to identify and provide technical
37 assistance in implementing industrial symbiosis projects;

38 (b) To the extent possible, procuring or contracting for power
39 from renewable sources;

1 (c) Adopting practices to improve the energy efficiency of
2 existing data centers, including through upgrading and consolidating
3 technology, managing data center airflow, and adjusting and improving
4 heating, ventilation, and air conditioning systems; and

5 (d) Taking actions to conserve, reuse, and replace water. This
6 includes using water efficient fixtures and practices; treating,
7 infiltrating, and harvesting rainwater; recycling water before
8 discharging; partnering with local water utilities to use discharged
9 water for irrigation and other water conservation purposes; using
10 reclaimed water where possible for data center operations; and
11 supporting water restoration in local watersheds.

12 (6) Qualifying businesses and tenants must claim an exemption
13 under this section in the current tax year when the taxes would have
14 been due unless an extension is filed with the department.

15 (7) A qualifying business or a qualifying tenant claiming an
16 exemption under this section must complete an annual tax performance
17 report as required in RCW 82.32.534. The report must identify
18 construction firm names and employment levels used for constructing,
19 renovating, refurbishing, or remodeling the data centers.

20 (8)(a) The certificate holder may not at any time assign or
21 transfer a certificate without the prior written consent of the
22 department. The department must allow certificate transfers if the
23 certificate holder meets the following requirements:

24 (i) The certificate assignee or transferee is qualified to do
25 business in the state;

26 (ii) The assignee or transferee acknowledges the transfer of the
27 certificate in writing;

28 (iii) The assignee or transferee agrees to keep and perform all
29 the terms of the certificates; and

30 (iv) An assignment or transfer of the certificate is to an entity
31 that:

32 (A) Controls, is controlled by, or under common control with, the
33 certificate holder;

34 (B) Acquires all or substantially all of the stock or assets of
35 the certificate holder; or

36 (C) Is the resulting entity of a merger or consolidation with the
37 certificate holder.

38 (b) Information submitted on the tax performance report is not
39 subject to the confidentiality provisions of RCW 82.32.330 and may be

1 disclosed to the public upon request, except as provided otherwise in
2 RCW 82.32.330.

3 (9) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "Affiliated" means that one person has a direct or indirect
6 ownership interest of at least 20 percent in another person.

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

11 (c) "Certificate of occupancy" means:

12 (i) For a newly constructed eligible computer data center, the
13 certificate of occupancy issued by a local governing authority for
14 the structure or structures which comprise the eligible computer data
15 center; or

16 (ii) For renovations of an eligible computer data center, the
17 certificate of occupancy issued by a local governing authority for
18 the renovated structure or structures that comprise the eligible
19 computer data center.

20 (d) (i) "Computer data center" means a facility comprised of one
21 or more buildings, which may be comprised of multiple businesses,
22 constructed or refurbished specifically, and used primarily, to house
23 working servers, where the facility has the following
24 characteristics: (A) Uninterruptible power supplies, generator backup
25 power, or both; (B) sophisticated fire suppression and prevention
26 systems; and (C) enhanced physical security, such as: Restricted
27 access to the facility to selected personnel; continuous on-site
28 security guards; video camera surveillance; an electronic system
29 requiring passcodes, keycards, or biometric scans, such as hand scans
30 and retinal or fingerprint recognition; or similar security features.

31 (ii) For a computer data center comprised of multiple buildings,
32 each separate building constructed or refurbished specifically, and
33 used primarily, to house working servers is considered a computer
34 data center if it has all of the characteristics listed in (d) (i) (A)
35 through (C) of this subsection (9).

36 (iii) A facility comprised of one building or more than one
37 building must have a combined square footage of at least 100,000
38 square feet.

39 (e) "Electronic data storage and data management services"
40 includes, but is not limited to: Providing data storage and backup

1 services, providing computer processing power, hosting enterprise
2 software applications, and hosting websites. The term also includes
3 providing services such as email, web browsing and searching, media
4 applications, and other online services, regardless of whether a
5 charge is made for such services.

6 (f) "Eligible computer data center" means a computer data center
7 having at least 20,000 square feet dedicated for housing working
8 servers. Movable or fixed stand-alone, prefabricated, or modular
9 units, including intermodal shipping containers, do not qualify as
10 "eligible computer data centers."

11 (g) "Eligible power infrastructure" means all fixtures and
12 equipment owned by a qualifying business or qualifying tenant and
13 necessary for the transformation, distribution, or management of
14 electricity that is required to operate eligible server equipment
15 within an eligible computer data center. The term includes
16 generators; wiring; cogeneration equipment; and associated fixtures
17 and equipment, such as electrical switches, batteries, and
18 distribution, testing, and monitoring equipment. The term does not
19 include substations.

20 (h) (i) "Eligible server equipment" means for a qualifying
21 business whose computer data center qualifies as an eligible computer
22 data center, the original server equipment installed in an eligible
23 computer data center on or after the effective date of this section,
24 and replacement server equipment.

25 (ii) For purposes of this subsection (9) (h), "replacement server
26 equipment" means server equipment that:

27 (A) Replaces existing server equipment, if the sale or use of the
28 server equipment to be replaced qualified for an exemption under this
29 section or section 6 of this act; and

30 (B) Is installed and put into regular use within 10 years of the
31 effective date of this section.

32 (iii) For a qualifying tenant who leases space within an eligible
33 computer data center, "eligible server equipment" means the original
34 server equipment installed within the space it leases from an
35 eligible computer data center with an exemption certificate on or
36 within 10 years of the effective date of this section, and
37 replacement server equipment. For purposes of this subsection
38 (9) (h) (iii), "replacement server equipment" means server equipment
39 that:

1 (A) (I) Replaces existing server equipment, if the sale or use of
2 the server equipment to be replaced qualified for an exemption under
3 this section or section 6 of this act and is installed and put into
4 regular use before July 1, 2027; or

5 (II) Replaces existing server equipment in a computer data center
6 that meets the following requirements: Was ineligible before the
7 effective date of this section for the exemptions provided under this
8 section and section 6 of this act; has been refurbished; and to which
9 a valid exemption certificate applies; and

10 (B) Is installed and put into regular use no later than 12 years
11 after the date of the certificate of occupancy or completion of
12 refurbishment of the computer data center.

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

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

31 (k) (i) "Refurbished" or "refurbishment" means a substantial
32 improvement to an eligible computer data center for which a
33 certificate of occupancy is not issued. Such an improvement must
34 update or modernize servers, server space, ventilation, or power
35 infrastructure in an eligible computer data center.

36 (ii) For a qualifying computer data center to be considered
37 refurbished, the qualifying business must certify, in a form and
38 manner prescribed by the department, that the refurbishment of an
39 eligible computer data center is complete. The refurbishment is
40 considered complete on the date that the improved portion of the

1 computer data center is operationally complete and able to be used
2 for its intended purpose.

3 (1) "Server equipment" means the computer hardware located in an
4 eligible computer data center and used exclusively to provide
5 electronic data storage and data management services for internal use
6 by the owner or lessee of the computer data center, for clients of
7 the owner. For the purposes of this subsection, "electronic data
8 storage and data management services" include, but are not limited
9 to: Providing data storage and backup services, providing computer
10 processing power, hosting enterprise software applications, and
11 hosting websites. The term also includes providing services such as
12 email, web browsing and searching, media applications, and other
13 online services, regardless of whether a charge is made for such
14 services. "Server equipment" also includes computer software
15 necessary to operate the computer hardware. "Server equipment" does
16 not include personal computers, the racks upon which the server
17 equipment is installed, and computer peripherals such as keyboards,
18 monitors, printers, and mice, unless used within the eligible
19 computer data center.

20 (7) This section expires July 1, 2038.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.12
22 RCW to read as follows:

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

32 (2) The exemption provided in this section does not apply to any
33 person for whom the exemption under section 5 of this act does not
34 apply.

35 (3) A qualifying business or a qualifying tenant claiming an
36 exemption under this section must complete an annual tax performance
37 report as required in RCW 82.32.534. The report must identify
38 construction firm names and employment levels used for constructing,
39 renovating, refurbishing, or remodeling the data centers.

1 (4) The definitions and requirements in section 5 of this act
2 apply to this section.

3 (5) This section expires July 1, 2038.

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

6 From the effective date of this section, in order to obtain the
7 exemption provided in RCW 82.08.986 or section 5 of this act, a
8 qualifying business or qualifying tenant must certify to the
9 department that, for new construction work to be performed on the
10 site of the computer data center, the computer data center receiving
11 an exemption under RCW 82.08.986 or section 5 of this act will be
12 constructed by the prime contractor and its subcontractors in a way
13 that includes community workforce agreements or project labor
14 agreements and the payment of area standard prevailing wages and
15 apprenticeship utilization requirements, provided the following
16 apply:

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

26 (2) It is understood that this is a self-contained, stand-alone
27 agreement, and that by virtue of having become bound to such
28 agreement or agreements, neither the project contractor nor the
29 subcontractors are obligated to sign any other local, area, or
30 national agreement.

31 NEW SECTION. **Sec. 8.** (1) The energy facility site evaluation
32 council established under RCW 80.50.030 shall contract with the
33 Pacific Northwest national laboratory to:

34 (a) Evaluate Washington's current and future electric grid
35 resilience and reliability based on current and projected electric
36 energy production, the state's ability to produce energy in state,
37 Washington's reliance on energy production outside of the state, and
38 its energy grid interdependence with other western states;

1 (b) Identify key grid resilience and reliability challenges that
2 could emerge under multiple future scenarios given adoption of new
3 energy technologies, changes in residential and industrial energy
4 demand, and changes in energy production and availability from both
5 in and out-of-state sources;

6 (c) Study the impact to the future electric grid resulting from
7 the growth of the information technology sector, including the impact
8 of increased data center energy demand from the tax exemptions
9 provided in RCW 82.08.986 or section 5 of this act;

10 (d) Review and incorporate existing models, data, and study
11 findings to ensure a duplication of efforts does not occur and to
12 highlight modeling gaps related to regional grid resilience planning;

13 (e) Convene an advisory group to inform scenario development and
14 review results, which may include representatives from the Washington
15 State University Pacific Northwest national laboratory advanced grid
16 institute, energy facility site evaluation council, department of
17 commerce, utilities and transportation commission, relevant
18 legislative committees, energy producers, utilities, labor,
19 environmental organizations, tribes, and communities at high risk of
20 rolling blackouts and power supply inadequacy; and

21 (f) Develop recommendations for enhancing electric grid
22 reliability and resiliency for Washington that includes
23 considerations of affordability, equity, and federal funding
24 opportunities.

25 (2) The energy facility site evaluation council shall report by
26 December 1, 2022, in compliance with RCW 43.01.036, the Pacific
27 Northwest national laboratory's findings and recommendations to the
28 appropriate committees of the legislature concerning electric grid
29 resilience and reliability evaluated in subsection (1) of this
30 section.

31 (3) This section expires December 1, 2023.

--- END ---