

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1846

67th Legislature
2022 Regular Session

Passed by the House March 4, 2022
Yeas 68 Nays 30

**Speaker of the House of
Representatives**

Passed by the Senate March 10, 2022
Yeas 36 Nays 13

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1846** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1846

Passed Legislature - 2022 Regular Session

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

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

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

34 (ii) After the minimum number of family wage employment positions
35 as required under (a) (i) of this subsection (3) is established, a
36 qualifying business or a qualifying tenant must maintain the minimum
37 family wage employment positions required under (a) (i) of this
38 subsection (3) while the exemption certificate is valid.

39 (b) In calculating the net increase in family wage employment
40 positions:

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

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

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

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

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

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

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

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

35 (II) In the instance of the refurbishment of an existing data
36 center that previously qualified under the data center program, the
37 data center may count the existing employment positions dedicated to
38 the data center toward the family wage employment position
39 requirements if the employment positions meet the requirements of a

1 family wage employment position as described in (c)(i)(B) and (C) of
2 this subsection (3).

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

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

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

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

28 (D) "New permanent employment position" means an employment
29 position that did not exist or that had not previously been filled as
30 of the date that the department issued an exemption certificate to
31 the ~~((owner))~~ qualifying business or qualifying tenant of an eligible
32 computer data center, as the case may be.

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

36 (B) Family wage employment positions also include individuals
37 performing work at an eligible computer data center as an independent
38 contractor hired by the owner of the eligible computer data center or
39 as an employee of an independent contractor hired by the owner of the
40 eligible computer data center, if the work is necessary for the

1 operation of the computer data center, such as security and building
2 maintenance, and provided that all of the applicable requirements in
3 (c)(i) of this subsection (3) are met.

4 ~~((All))~~ (i) For a qualifying business or qualifying tenant
5 that does not meet the requirements of this subsection (3),
6 previously exempted sales and use taxes are immediately due and
7 payable ((for a qualifying business or qualifying tenant that does
8 not meet the requirements of this subsection)) and any exemption
9 certificate issued to that qualifying business or qualifying tenant
10 under this section is canceled, except as described in (d)(iii) of
11 this subsection (3).

12 (ii) The department of labor and industries must, at the request
13 of the department, assist in determining whether the requirements of
14 this subsection (3) have been met.

15 (iii) If the department, with the assistance of the department of
16 labor and industries, finds that a failure to meet the requirements
17 of this subsection (3) is due to circumstances beyond the control of
18 the qualifying business or qualifying tenant including, but not
19 limited to, a declaration of an economic recession, pandemic, or
20 natural disaster affecting data center operations, the department may
21 provide exceptions or extensions to the requirements of this
22 subsection (3).

23 (iv) Any repayment of taxes triggered by the failure of a
24 qualifying business or qualifying tenant to meet the requirements of
25 this subsection (3) must be calculated in proportion to the duration
26 of time for which any applicable requirement was not met.

27 (v) If the department is notified that a qualifying business or
28 qualifying tenant fails to meet the requirements of this subsection
29 (3), the department may require a qualifying business or qualifying
30 tenant to submit records necessary to determine whether the
31 requirements have been met.

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

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

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

40 (ii) Energy star;

1 (iii) Envision;

2 (iv) ISO 50001-energy management;

3 (v) LEED for building design and construction or LEED for
4 operations and maintenance;

5 (vi) Green globes for new construction or green globes for
6 existing buildings;

7 (vii) UL 3223; or

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

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

12 (c)(i) For a qualifying business or qualifying tenant that does
13 not meet the requirements of (a) of this subsection (4), all
14 previously exempted sales and use taxes may be immediately due and
15 payable, any exemption certificate issued to that qualifying business
16 or qualifying tenant under this section is canceled, and an
17 additional 10 percent penalty is assessed, except as described in
18 (c)(ii) of this subsection (4).

19 (ii) If the department finds that a failure to meet the
20 requirements of this subsection (4) is due to circumstances beyond
21 the control of the qualifying business or qualifying tenant
22 including, but not limited to, a declaration of an economic
23 recession, pandemic, or natural disaster affecting data center
24 operations, the department may, at its discretion, provide exceptions
25 or extensions to the requirements of this subsection (4). The
26 department may, at its discretion, coordinate with agencies with
27 relevant expertise to assist in determining whether the requirements
28 have been met.

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

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

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

38 (c) Adopting practices to improve the energy efficiency of
39 existing data centers, including through upgrading and consolidating

1 technology, managing data center airflow, and adjusting and improving
2 heating, ventilation, and air conditioning systems; and

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

10 (6) A qualifying business or a qualifying tenant claiming an
11 exemption under this section or RCW 82.12.986 must complete an annual
12 tax performance report with the department as required under RCW
13 82.32.534. The report must identify construction firm names and
14 employment levels used for constructing, renovating, refurbishing, or
15 remodeling the data centers.

16 ~~((5)) (7)(a) ((The exemption provided in this section does not~~
17 ~~apply to:~~

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

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

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 ~~(6))~~ The certificate holder may not at any time assign or
34 transfer a certificate without the prior written consent of the
35 department. The department must allow certificate transfers if the
36 certificate holder meets the following requirements:

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

39 (ii) The assignee or transferee acknowledges the transfer of the
40 certificate in writing;

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

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

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

7 (B) Acquires all or substantially all of the stock or assets of
8 the certificate holder; or

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

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

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

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

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

25 (c) "Certificate of occupancy" means:

26 (i) For a newly constructed eligible computer data center, the
27 certificate of occupancy issued by a local governing authority for
28 the structure or structures which comprise the eligible computer data
29 center; or

30 (ii) For renovations of an eligible computer data center, the
31 certificate of occupancy issued by a local governing authority for
32 the renovated structure or structures that comprise the eligible
33 computer data center.

34 (d)(i) "Computer data center" means a facility comprised of one
35 or more buildings, which may be comprised of multiple businesses,
36 constructed or refurbished specifically, and used primarily, to house
37 working servers, where the facility has the following
38 characteristics: (A) Uninterruptible power supplies, generator backup
39 power, or both; (B) sophisticated fire suppression and prevention
40 systems; and (C) enhanced physical security, such as: Restricted

1 access to the facility to selected personnel; permanent security
2 guards; video camera surveillance; an electronic system requiring
3 passcodes, keycards, or biometric scans, such as hand scans and
4 retinal or fingerprint recognition; or similar security features.

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

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

13 ~~((d))~~ (e) "Electronic data storage and data management
14 services" include, but are not limited to: Providing data storage and
15 backup services, providing computer processing power, hosting
16 enterprise software applications, and hosting websites. The term also
17 includes providing services such as email, web browsing and
18 searching, media applications, and other online services, regardless
19 of whether a charge is made for such services.

20 ~~((e))~~ (f)(i) "Eligible computer data center" means a computer
21 data center:

22 (A) Located in a rural county as defined in RCW 82.14.370 at the
23 time an application for an exemption under this section is received;

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

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

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

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

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

31 (ii) For purposes of this section, "commencement of construction"
32 means the date that a building permit is issued under the building
33 code adopted under RCW 19.27.031 for construction of the computer
34 data center. The construction of a computer data center includes the
35 expansion, renovation, or ~~((other improvements made to))~~
36 refurbishment of existing facilities regardless of whether the
37 existing facility was previously ineligible and regardless of whether
38 commencement of construction of the existing facility occurred
39 outside of the dates listed in (f)(i)(C)(I) through (III) of this
40 subsection, including leased or rented space. "Commencement of

1 construction" does not include soil testing, site clearing and
2 grading, site preparation, or any other related activities that are
3 initiated before the issuance of a building permit for the
4 construction of the foundation of a computer data center. If no
5 building permit is required for renovation or refurbishment, then the
6 date that renovation or refurbishment begins is the "commencement of
7 construction."

8 ~~((iii) With respect to facilities in existence on April 1, 2010,~~
9 ~~that are expanded, renovated, or otherwise improved after March 31,~~
10 ~~2010, or facilities in existence on April 1, 2012, that are expanded,~~
11 ~~renovated, or otherwise improved after March 31, 2012, or facilities~~
12 ~~in existence on July 1, 2015, that are expanded, renovated, or~~
13 ~~otherwise improved after June 30, 2015, an eligible computer data~~
14 ~~center includes only the portion of the computer data center meeting~~
15 ~~the requirements in (e)(i)(B) of this subsection (6).~~

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

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

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

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

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

37 (ii) For a qualifying business whose computer data center
38 qualifies as an eligible computer data center under ~~((e))~~ (f)
39 (i)(C)(II) of this subsection ~~((6))~~ (8), "eligible server
40 equipment" means the original server equipment installed in an

1 eligible computer data center on or after April 1, 2012, and before
2 January 1, 2026, and replacement server equipment. For purposes of
3 this subsection ~~((6)(g))~~ (8)(h)(ii), "replacement server equipment"
4 means server equipment that:

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

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

9 (iii) ~~((A))~~ For a qualifying business whose computer data center
10 qualifies as an eligible computer data center under ~~((e))~~ (f)
11 (i)(C)(III) of this subsection ~~((6))~~ (8), "eligible server
12 equipment" means the original server equipment installed in a
13 building within an eligible computer data center on or after July 1,
14 2015, and replacement server equipment. Server equipment installed in
15 movable or fixed stand-alone, prefabricated, or modular units,
16 including intermodal shipping containers, is not "directly installed
17 in a building." For purposes of this subsection ~~((6)(g))~~ (8)(h)
18 (iii) ~~((A))~~, "replacement server equipment" means server equipment
19 that ~~((replaces))~~:

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

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

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

31 (iv) For a qualifying tenant who leases space within an eligible
32 computer data center, "eligible server equipment" means the original
33 server equipment installed within the space it leases from an
34 eligible computer data center with an exemption certificate on or
35 after April 1, 2010, ~~((and before January 1, 2026,))~~ and replacement
36 server equipment. For purposes of this subsection ~~((6)(g))~~ (8)(h)
37 (iv), "replacement server equipment" means server equipment that:

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 (~~before April 1, 2024;~~
7 and

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

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

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

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

39 (ii) Prior to May 2, 2012, the primary use of the server
40 equipment installed in that eligible computer data center was to

1 provide electronic data storage and data management services for the
2 business purposes of either the lessor, persons affiliated with the
3 lessor, or both.

4 ~~((j))~~ (k) (i) "Refurbished" or "refurbishment" means a
5 substantial improvement to an eligible computer data center to update
6 or modernize servers, server space, ventilation, or power
7 infrastructure in an eligible computer data center.

8 (ii) For a qualifying computer data center to be considered
9 refurbished, the qualifying business must certify, in a form and
10 manner prescribed by the department, that the refurbishment of an
11 eligible computer data center is complete. The refurbishment is
12 considered complete on the date that the improved portion of the
13 computer data center is operationally complete and able to be used
14 for its intended purpose.

15 (l) "Server equipment" means the computer hardware located in an
16 eligible computer data center and used exclusively to provide
17 electronic data storage and data management services, including cloud
18 services, for internal use by the owner or lessee of the computer
19 data center, for clients of the owner or lessee of the computer data
20 center, or both. "Server equipment" also includes computer software
21 necessary to operate the computer hardware. "Server equipment" does
22 not include personal computers, the racks upon which the server
23 equipment is installed, and computer peripherals such as keyboards,
24 monitors, printers, and mice.

25 (9) This section expires July 1, 2048.

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

28 (1)(a) An exemption from the tax imposed by RCW 82.12.020 is
29 provided for the use by qualifying businesses or qualifying tenants
30 of eligible server equipment to be installed, without intervening
31 use, in an eligible computer data center for which an exemption
32 certificate under RCW 82.08.986 has been issued, and to the use of
33 labor and services rendered in respect to installing such server
34 equipment.

35 ~~((The))~~ (b) Until July 1, 2048, this exemption also applies to
36 the use by a qualifying business or qualifying tenant of eligible
37 power infrastructure, including labor and services rendered in
38 respect to installing, repairing, altering, or improving such

1 infrastructure at an eligible computer data center for which an
2 exemption certificate under RCW 82.08.986 has been issued.

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

4 (2) A qualifying business or a qualifying tenant is not eligible
5 for the exemption under this section unless the department issued an
6 exemption certificate to the qualifying business or a qualifying
7 tenant for the exemption provided in RCW 82.08.986.

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

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

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

17 ~~(b) If a person has received the benefit of the exemption under~~
18 ~~this section and subsequently receives the benefit of the deferral~~
19 ~~program under chapter 82.60 RCW on either the construction,~~
20 ~~renovation, or expansion of a structure or structures used as a~~
21 ~~computer data center or machinery or equipment used in a computer~~
22 ~~data center, the person must repay the amount of taxes exempted under~~
23 ~~this section. Interest as provided in chapter 82.32 RCW applies to~~
24 ~~amounts due under this subsection (3)(b) until paid in full. A person~~
25 ~~is not required to repay taxes under this subsection with respect to~~
26 ~~property and services for which the person is required to repay taxes~~
27 ~~under RCW 82.08.986(5).~~

28 ~~(4)) The definitions and requirements in RCW 82.08.986 apply to~~
29 ~~this section.~~

30 (4) The exemption provided in subsection (1) of this section does
31 not apply to the use of eligible server equipment and eligible power
32 infrastructure, and the labor and services provided in subsection (1)
33 of this section, if first used by qualifying businesses or qualifying
34 tenants on or after July 1, 2048.

35 (5) This section expires July 1, 2053.

36 NEW SECTION. Sec. 5. A new section is added to chapter 82.08
37 RCW to read as follows:

38 (1)(a) An exemption from the tax imposed by RCW 82.08.020 is
39 provided for sales to qualifying businesses and to qualifying tenants

1 of eligible server equipment to be installed, without intervening
2 use, in an eligible computer data center to which a valid exemption
3 certificate applies, and to charges made for labor and services
4 rendered in respect to installing eligible server equipment.

5 (b) The exemption also applies to sales to qualifying businesses
6 and to qualifying tenants of eligible power infrastructure, including
7 labor, material, equipment, and services rendered in respect to
8 constructing, installing, repairing, altering, or improving eligible
9 power infrastructure at an eligible computer data center for which an
10 exemption certificate has been issued.

11 (c) No new exemption certificates may be issued on or after July
12 1, 2028.

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

14 (2)(a)(i) In order to obtain an exemption, a qualifying business
15 must be located in a county with a population over 800,000, as
16 determined by the April 1, 2021, office of financial management
17 population estimates and must submit an application to the department
18 for an exemption certificate. The application must include the
19 information necessary, as required by the department, to determine
20 that a business or tenant qualifies for the exemption under this
21 section. The department must issue exemption certificates to
22 qualifying businesses and qualifying tenants. The department may
23 assign a unique identification number to each exemption certificate
24 issued under this section.

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 a minimum of 1.5 megawatts of
30 available power. The qualifying business must provide requests for
31 proposals, pricing offered, and marketing materials associated with
32 the requirements of this subsection, as required by the department,
33 as supporting documentation that the requirements of this subsection
34 (2)(a) have been met.

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

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

6 (B) Six applications to obtain the exemptions for qualifying
7 businesses in each year, calendar year three through calendar year
8 six, of the exemption.

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

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

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

20 (f) A qualifying tenant must contract for a minimum electrical
21 capacity of 150 kilowatts for server and computer equipment in a
22 qualifying business. Tenants that previously qualified under RCW
23 82.08.986 or 82.12.986 must reapply if they intend to expand into a
24 qualifying business.

25 (3)(a)(i) Within six years of the date that the department issued
26 an exemption certificate under this section to a qualifying business
27 or a qualifying tenant with respect to an eligible computer data
28 center, the qualifying business or qualifying tenant must establish
29 that net employment assigned to an eligible computer data center has
30 increased by a minimum of three family wage employment positions for
31 each incremental increase of 20,000 square feet of space that is
32 newly dedicated to housing working servers at the eligible computer
33 data center. For qualifying tenants, the number of family wage
34 employment positions that must be increased under this subsection
35 (3)(a)(i) is based only on the space occupied by the qualifying
36 tenant in the eligible computer data center.

37 (ii) After the minimum number of family wage employment positions
38 as required under (a)(i) of this subsection (3) is established, a
39 qualifying business or a qualifying tenant must maintain the minimum

1 family wage employment positions required under (a)(i) of this
2 subsection (3) while the exemption certificate is valid.

3 (b) In calculating the number of family wage employment
4 positions:

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

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

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

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

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

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

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

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

29 (A) For exemption certificates issued on or after the effective
30 date of this section, family wage employment positions are new
31 permanent employment positions requiring 40 hours of weekly work, or
32 their equivalent, on a full-time basis assigned to an eligible
33 computer data center and receiving a wage equivalent to or greater
34 than 125 percent of the per capita personal income of the county in
35 which the qualified project is located as published by the employment
36 security department. The per capita personal income to be used to
37 determine qualification for any year is the amount that was
38 established for the immediate prior year.

39 (B) An employment position may not be counted as a family wage
40 employment position unless the employment position is entitled to

1 health insurance coverage provided by the employer of the employment
2 position.

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

8 (ii) (A) Family wage employment positions include positions filled
9 by employees of the qualifying business and by employees of
10 qualifying tenants.

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

19 (d) (i) For a qualifying business or qualifying tenant that does
20 not meet the requirements of this subsection (3), all previously
21 exempted sales and use taxes immediately due and payable, and any
22 exemption certificate issued to that qualifying business or
23 qualifying tenant under this section is canceled, except as described
24 in (d) (iii) of this subsection (3).

25 (ii) The department of labor and industries must, at the request
26 of the department, assist in determining whether the requirements of
27 this subsection (3) have been met.

28 (iii) If the department, with the assistance of the department of
29 labor and industries, finds that a failure to meet the requirements
30 of this subsection (3) is due to circumstances beyond the control of
31 the qualifying business or qualifying tenant including, but not
32 limited to, a declaration of an economic recession, pandemic, or
33 natural disaster affecting data center operations, the department may
34 provide exceptions or extensions to the requirements of this
35 subsection (3).

36 (iv) Any repayment of taxes triggered by the failure of a
37 qualifying business or qualifying tenant to meet the requirements of
38 this subsection (3) must be calculated in proportion to the duration
39 of time for which any applicable requirement was not met.

1 (v) If the department is notified that a qualifying business or
2 qualifying tenant fails to meet the requirements of this subsection
3 (3), the department may require a qualifying business or qualifying
4 tenant to submit records necessary to determine whether the
5 requirements have been met.

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

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

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

14 (ii) Energy star;

15 (iii) Envision;

16 (iv) ISO 50001-energy management;

17 (v) LEED for building design and construction or LEED for
18 operations and maintenance;

19 (vi) Green globes for new construction or green globes for
20 existing buildings;

21 (vii) UL 3223; or

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

23 (b) The department may require qualifying businesses and
24 qualifying tenants to submit records necessary to verify the
25 requirements under this subsection (4) have been met.

26 (c) (i) For a qualifying business or qualifying tenant that does
27 not meet the requirements of this subsection (4), all previously
28 exempted sales and use taxes are immediately due and payable, any
29 exemption certificate issued to that qualifying business or
30 qualifying tenant under this section is canceled, and an additional
31 10 percent penalty is assessed, except as described in (c) (ii) of
32 this subsection (4).

33 (ii) If the department finds that a failure to meet the
34 requirements of this subsection (4) is due to circumstances beyond
35 the control of the qualifying business or qualifying tenant
36 including, but not limited to, a declaration of an economic
37 recession, pandemic, or natural disaster affecting data center
38 operations, the department may, at its discretion, provide exceptions
39 or extensions to the requirements of this subsection (4). The
40 department may, at its discretion, coordinate with agencies with

1 relevant expertise to assist in determining whether the requirements
2 of this subsection (4) have been met.

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

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

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

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

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

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

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

31 (8)(a) The certificate holder may not at any time assign or
32 transfer a certificate without the prior written consent of the
33 department. The department must allow certificate transfers if the
34 certificate holder meets the following requirements:

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

37 (ii) The assignee or transferee acknowledges the transfer of the
38 certificate in writing;

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

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

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

5 (B) Acquires all or substantially all of the stock or assets of
6 the certificate holder; or

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

9 (b) Information submitted on the tax performance report is not
10 subject to the confidentiality provisions of RCW 82.32.330 and may be
11 disclosed to the public upon request, except as provided otherwise in
12 RCW 82.32.330.

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

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

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

21 (c) "Certificate of occupancy" means:

22 (i) For a newly constructed eligible computer data center, the
23 certificate of occupancy issued by a local governing authority for
24 the structure or structures which comprise the eligible computer data
25 center; or

26 (ii) For renovations of an eligible computer data center, the
27 certificate of occupancy issued by a local governing authority for
28 the renovated structure or structures that comprise the eligible
29 computer data center.

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

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

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

9 (e) "Electronic data storage and data management services"
10 includes, but is not limited to: Providing data storage and backup
11 services, providing computer processing power, hosting enterprise
12 software applications, and hosting websites. The term also includes
13 providing services such as email, web browsing and searching, media
14 applications, and other online services, regardless of whether a
15 charge is made for such services.

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

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

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

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

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

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

3 (iii) For a qualifying tenant who leases space within an eligible
4 computer data center, "eligible server equipment" means the original
5 server equipment installed within the space it leases from an
6 eligible computer data center with an exemption certificate on or
7 within 10 years of the effective date of this section, and
8 replacement server equipment. For purposes of this subsection
9 (9)(h)(iii), "replacement server equipment" means server equipment
10 that:

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

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

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

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

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

1 (k) (i) "Refurbished" or "refurbishment" means a substantial
2 improvement to an eligible computer data center for which a
3 certificate of occupancy is not issued. Such an improvement must
4 update or modernize servers, server space, ventilation, or power
5 infrastructure in an eligible computer data center.

6 (ii) For a qualifying computer data center to be considered
7 refurbished, the qualifying business must certify, in a form and
8 manner prescribed by the department, that the refurbishment of an
9 eligible computer data center is complete. The refurbishment is
10 considered complete on the date that the improved portion of the
11 computer data center is operationally complete and able to be used
12 for its intended purpose.

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

30 (10) This section expires July 1, 2038.

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

33 (1) An exemption from the tax imposed by RCW 82.12.020 is
34 provided for the use by qualifying businesses or qualifying tenants
35 of eligible server equipment to be installed, without intervening
36 use, in an eligible computer data center, and to the use of labor and
37 services rendered in respect to installing such server equipment. The
38 exemption also applies to the use by a qualifying business or
39 qualifying tenant of eligible power infrastructure, including labor

1 and services rendered in respect to installing, repairing, altering,
2 or improving such infrastructure.

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

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

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

13 (5) The exemption provided in subsection (1) of this section does
14 not apply to the use of eligible server equipment and eligible power
15 infrastructure, and the labor and services provided in subsection (1)
16 of this section, if first used by qualifying businesses or qualifying
17 tenants on or after July 1, 2038.

18 (6) This section expires July 1, 2043.

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

21 From the effective date of this section, in order to obtain the
22 exemption provided in RCW 82.08.986 or section 5 of this act, a
23 qualifying business or qualifying tenant must certify to the
24 department that, for new construction work to be performed on the
25 site of the computer data center, the computer data center receiving
26 an exemption under RCW 82.08.986 or section 5 of this act will be
27 constructed by the prime contractor and its subcontractors in a way
28 that includes community workforce agreements or project labor
29 agreements and the payment of area standard prevailing wages and
30 apprenticeship utilization requirements, provided the following
31 apply:

32 (1) The owner and the prime contractor and all of its
33 subcontractors regardless of tier have the absolute right to select
34 any qualified and responsible bidder for the award of contracts on a
35 specified project without reference to the existence or nonexistence
36 of any agreements between such bidder and any party to such project
37 labor agreement, and only when such bidder is willing, ready, and
38 able to become a party to, signs a letter of assent, and complies

1 with such agreement or agreements, should it be designated the
2 successful bidder; and

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

8 NEW SECTION. **Sec. 8.** (1) The department of commerce shall
9 contract with the Pacific Northwest national laboratory to:

10 (a) Evaluate Washington's current and future electric grid
11 resilience and reliability based on current and projected electric
12 energy production, the state's ability to produce energy in state,
13 Washington's reliance on energy production outside of the state, and
14 its energy grid interdependence with other western states;

15 (b) Identify key grid resilience and reliability challenges that
16 could emerge under multiple future scenarios given adoption of new
17 energy technologies, changes in residential and industrial energy
18 demand, and changes in energy production and availability from both
19 in and out-of-state sources;

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

24 (d) Review and incorporate existing models, data, and study
25 findings including, but not limited to, the "Washington 2021 state
26 energy strategy and the 2021 northwest power plan," to ensure a
27 duplication of efforts does not occur and to highlight modeling gaps
28 related to regional grid resilience planning;

29 (e) Convene an advisory group to inform scenario development and
30 review results, which may include representatives from the Washington
31 State University Pacific Northwest national laboratory advanced grid
32 institute, utilities and transportation commission, relevant
33 legislative committees, energy producers, utilities, labor,
34 environmental organizations, tribes, and communities at high risk of
35 rolling blackouts and power supply inadequacy; and

36 (f) Develop recommendations for enhancing electric grid
37 reliability and resiliency for Washington that includes
38 considerations of affordability, equity, and federal funding
39 opportunities.

1 (2) The department of commerce shall report by December 1, 2022,
2 in compliance with RCW 43.01.036, the Pacific Northwest national
3 laboratory's findings and recommendations to the appropriate
4 committees of the legislature concerning electric grid resilience and
5 reliability evaluated in subsection (1) of this section.

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

7 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
8 section 8 of this act, referencing section 8 of this act by bill or
9 chapter number and section number, is not provided by June 30, 2022,
10 in the omnibus appropriations act, section 8 of this act is null and
11 void.

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