
HOUSE BILL 2708

State of Washington

69th Legislature

2026 Regular Session

By Representatives Berg, Street, Ryu, Parshley, Gregerson, Pollet, and Ormsby; by request of Office of Financial Management

Read first time 01/30/26. Referred to Committee on Finance.

1 AN ACT Relating to removing a tax exemption for the replacement
2 of equipment for data centers; amending RCW 82.08.986 and 82.08.9861;
3 creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that, according to
6 the most recent tax exemption study published by the department of
7 revenue, there are currently 786 tax exemptions for the major state
8 and local tax sources in Washington. A number of these tax exemptions
9 have been unchanged in law for a long time and exist as the result of
10 private interests securing preferential tax treatment. Furthermore,
11 the legislature finds that the state's tax code must be periodically
12 reviewed and updated to ensure that tax policy reflects our modern
13 economy and provides adequate revenue to fund necessary and essential
14 services to support the well-being of Washingtonians. Thus, it is the
15 intent of the legislature to remove a tax preference in order to
16 increase revenue to the state's general fund to maintain essential
17 state services.

18 **Sec. 2.** RCW 82.08.986 and 2025 c 411 s 4 are each amended to
19 read as follows:

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

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

13 (c) No new exemption certificates may be issued on or after July
14 1, 2036.

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

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

23 (ii) New exemption certificates may not be issued on or after
24 July 1, 2026, for data centers that qualify through refurbishment.

25 (iii) The exemption granted to data centers that qualify through
26 refurbishment under this subsection (1) (e) expires July 1, 2026.

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

36 (b) A qualifying business or a qualifying tenant claiming the
37 exemption under this section must present the seller with an
38 exemption certificate in a form and manner prescribed by the
39 department. The seller must retain a copy of the certificate for the
40 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 12 from July 1, 2015,
6 through June 9, 2022. Tenants of qualified data centers do not
7 constitute additional data centers under the limit. The exemption is
8 available on a first-in-time basis based on the date the application
9 required under this section is received by the department.

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

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

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

24 (A) Thirty-five family wage employment positions; or, if lower

25 (B) Three family wage employment positions for each 20,000 square
26 feet of space or less that is newly dedicated to housing working
27 servers at the eligible computer data center. For qualifying tenants,
28 the number of family wage employment positions that must be increased
29 under this subsection (3) (a) (i) (B) is based only on the space
30 occupied by the qualifying tenant in the eligible computer data
31 center.

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

37 (b) In calculating the net increase in family wage employment
38 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 is equal to the net increase in family wage
18 employment positions assigned to an eligible computer data center as
19 described in (b)(ii)(A)(I) and (II) of this subsection (3),
20 multiplied by the percentage of total space within the eligible
21 computer data center occupied by the qualifying tenant. Any
22 combination of qualifying business and qualifying tenant family wage
23 employment positions may meet this requirement.

24 (C)(I) In the instance of an existing data center facility that
25 was ineligible, regardless of the date of commencement of
26 construction, that later obtains an exemption certificate under this
27 section, the data center may count the existing employment positions
28 that are dedicated to the data center toward the new family wage
29 employment position requirements if the employment positions meet the
30 requirements of a family wage employment position, as described in
31 (c)(i)(B) and (C) of this subsection (3), other than the requirement
32 that the position did not exist or had not previously been filled as
33 of the date that the department issued an exemption certificate.

34 (II) In the instance of the refurbishment of an existing data
35 center that previously qualified under the data center program, the
36 data center may count the existing employment positions dedicated to
37 the data center toward the new family wage employment position
38 requirements if the employment positions meet the requirements of a
39 family wage employment position, as described in (c)(i)(B) and (C) of
40 this subsection (3), other than the requirement that the position did

1 not exist or had not previously been filled as of the date that the
2 department issued an exemption certificate.

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

4 (A) For exemption certificates issued before June 9, 2022, family
5 wage employment positions are new permanent employment positions
6 requiring 40 hours of weekly work, or their equivalent, on a full-
7 time basis assigned to an eligible computer data center and receiving
8 a wage equivalent to or greater than 150 percent of the per capita
9 personal income of the county in which the qualified project is
10 located as published by the employment security department. The per
11 capita personal income to be used to determine qualification for any
12 year is the amount that was established for the immediate prior year.

13 (B) For exemption certificates issued on or after June 9, 2022,
14 family wage employment positions are new permanent employment
15 positions requiring 40 hours of weekly work, or their equivalent, on
16 a full-time basis assigned to an eligible computer data center and
17 receiving a wage equivalent to or greater than 125 percent of the per
18 capita personal income of the county in which the qualified project
19 is located as published by the employment security department. The
20 per capita personal income to be used to determine qualification for
21 any year is the amount that was established for the immediate prior
22 year.

23 (C) An employment position may not be counted as a family wage
24 employment position unless the employment position is entitled to
25 health insurance coverage provided by the employer of the employment
26 position.

27 (D) "New permanent employment position" means an employment
28 position that did not exist or that had not previously been filled as
29 of the date that the department issued an exemption certificate to
30 the qualifying business or qualifying tenant of an eligible computer
31 data center, as the case may be, except as provided in (b) (ii) (C) of
32 this subsection (3).

33 (ii) (A) Family wage employment positions include positions filled
34 by employees of the qualifying business and by employees of
35 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 (d)(i) For a qualifying business or qualifying tenant that does
5 not meet the requirements of this subsection (3), previously exempted
6 sales and use taxes are immediately due and payable and any exemption
7 certificate issued to that qualifying business or qualifying tenant
8 under this section is canceled, except as described in (d)(iii) of
9 this subsection (3).

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

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

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

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

30 (4) For exemption certificates issued on or after June 9, 2022:

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

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

37 (ii) Energy star;

38 (iii) Envision;

39 (iv) ISO 50001-energy management;

1 (v) LEED for building design and construction or LEED for
2 operations and maintenance;

3 (vi) Green globes for new construction or green globes for
4 existing buildings;

5 (vii) UL 3223; or

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

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

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

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

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

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

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

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

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

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

14 (7) (a) The certificate holder may not at any time assign or
15 transfer a certificate without the prior written consent of the
16 department. The department must allow certificate transfers if the
17 certificate holder meets the following requirements:

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

20 (ii) The assignee or transferee acknowledges the transfer of the
21 certificate in writing;

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

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

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

28 (B) Acquires all or substantially all of the stock or assets of
29 the certificate holder; or

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

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

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

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

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

7 (c) "Certificate of occupancy" means:

8 (i) For a newly constructed eligible computer data center, the
9 certificate of occupancy issued by a local governing authority for
10 the structure or structures which comprise the eligible computer data
11 center; or

12 (ii) For renovations of an eligible computer data center, the
13 certificate of occupancy issued by a local governing authority for
14 the renovated structure or structures that comprise the eligible
15 computer data center.

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

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

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

35 (e) "Electronic data storage and data management services"
36 include, but are not limited to: Providing data storage and backup
37 services, providing computer processing power, hosting enterprise
38 software applications, and hosting websites. The term also includes
39 providing services such as email, web browsing and searching, media

1 applications, and other online services, regardless of whether a
2 charge is made for such services.

3 (f) (i) "Eligible computer data center" means a computer data
4 center:

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

7 (B) Having at least 20,000 square feet dedicated to housing
8 working servers; and

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

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

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

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

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

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

38 (h) "Eligible server equipment" means:

39 (i) For a qualifying business whose computer data center
40 qualifies as an eligible computer data center under (f) (i) (C) (I) of

1 this subsection (8), the original server equipment installed in an
2 eligible computer data center on or after April 1, 2010, and before
3 January 1, 2026, and replacement server equipment. For purposes of
4 this subsection (8)(h)(i), "replacement server equipment" means
5 server equipment that:

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

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

10 (ii) For a qualifying business whose computer data center
11 qualifies as an eligible computer data center under (f)(i)(C)(II) of
12 this subsection (8), "eligible server equipment" means the original
13 server equipment installed in an eligible computer data center on or
14 after April 1, 2012, and before January 1, 2026, and replacement
15 server equipment. For purposes of this subsection (8)(h)(ii),
16 "replacement server equipment" means server equipment that:

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

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

21 (iii) For a qualifying business whose computer data center
22 qualifies as an eligible computer data center under (f)(i)(C)(III) of
23 this subsection (8), "eligible server equipment" means the original
24 server equipment installed in a building within an eligible computer
25 data center on or after July 1, 2015(~~(, and replacement server~~
26 ~~equipment)).~~ Server equipment installed in movable or fixed stand-
27 alone, prefabricated, or modular units, including intermodal shipping
28 containers, is not "directly installed in a building." (~~For purposes~~
29 ~~of this subsection (8)(h)(iii), "replacement server equipment" means~~
30 ~~server equipment that:~~

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

34 ~~(II) Replaces existing server equipment in a computer data center~~
35 ~~that meets the following requirements: Was ineligible before June 9,~~
36 ~~2022, for the exemptions provided under this section and RCW~~
37 ~~82.12.986; has been refurbished; and to which a valid exemption~~
38 ~~certificate applies; and~~

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

4 (iv) For a qualifying tenant who leases space within an eligible
5 computer data center, "eligible server equipment" means the original
6 server equipment installed within the space it leases from an
7 eligible computer data center with an exemption certificate on or
8 after April 1, 2010 ~~(, and replacement server equipment. For purposes~~
9 ~~of this subsection (8) (h) (iv), "replacement server equipment" means~~
10 ~~server equipment 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 RCW 82.12.986; or~~

14 ~~(II) Replaces existing server equipment in a computer data center~~
15 ~~that meets the following requirements: Was ineligible before June 9,~~
16 ~~2022, for the exemptions provided under this section and RCW~~
17 ~~82.12.986; has been refurbished; and to which a valid exemption~~
18 ~~certificate applies; and~~

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

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

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

1 (f)(i)(C)(I) of this subsection (8), if the lessee and lessor are
2 affiliated and:

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

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

12 (k)(i) "Refurbished" or "refurbishment" means a substantial
13 improvement to an eligible computer data center to update or
14 modernize servers, server space, ventilation, or power infrastructure
15 in an eligible computer data center.

16 (ii) For a qualifying computer data center to be considered
17 refurbished, the qualifying business must certify, in a form and
18 manner prescribed by the department, that the refurbishment of an
19 eligible computer data center is complete. The refurbishment is
20 considered complete on the date that the improved portion of the
21 computer data center is operationally complete and able to be used
22 for its intended purpose.

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

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

34 **Sec. 3.** RCW 82.08.9861 and 2022 c 267 s 5 are each amended to
35 read as follows:

36 (1)(a) An exemption from the tax imposed by RCW 82.08.020 is
37 provided for sales to qualifying businesses and to qualifying tenants
38 of eligible server equipment to be installed, without intervening
39 use, in an eligible computer data center to which a valid exemption

1 certificate applies, and to charges made for labor and services
2 rendered in respect to installing eligible server equipment.

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

9 (c) No new exemption certificates may be issued on or after July
10 1, 2028.

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

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

23 (ii) For the purposes of demonstrating that the requirements of
24 this subsection (2)(a) are met, a qualifying business must submit
25 records of available power for customers at the time of the
26 application for the exemption under this section. The qualifying
27 business must demonstrate that it has a minimum of 1.5 megawatts of
28 available power. The qualifying business must provide requests for
29 proposals, pricing offered, and marketing materials associated with
30 the requirements of this subsection, as required by the department,
31 as supporting documentation that the requirements of this subsection
32 (2)(a) have been met.

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

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

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

3 (B) Six applications to obtain the exemptions for qualifying
4 businesses in each year, calendar year three through calendar year
5 six, of the exemption.

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

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

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

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

22 (3) (a) (i) Within six years of the date that the department issued
23 an exemption certificate under this section to a qualifying business
24 or a qualifying tenant with respect to an eligible computer data
25 center, the qualifying business or qualifying tenant must establish
26 that net employment assigned to an eligible computer data center has
27 increased by a minimum of three family wage employment positions for
28 each incremental increase of 20,000 square feet of space that is
29 newly dedicated to housing working servers at the eligible computer
30 data center. For qualifying tenants, the number of family wage
31 employment positions that must be increased under this subsection
32 (3) (a) (i) is based only on the space occupied by the qualifying
33 tenant in the 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 number of 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 is equal to the net increase in family wage
18 employment positions assigned to an eligible computer data center as
19 described in (b)(ii)(A)(I) and (II) of this subsection (3),
20 multiplied by the percentage of total space within the eligible
21 computer data center occupied by the qualifying tenant. Any
22 combination of qualifying business and qualifying tenant family wage
23 employment positions may meet this requirement.

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

25 (A) For exemption certificates issued on or after June 9, 2022,
26 family wage employment positions are new permanent employment
27 positions requiring 40 hours of weekly work, or their equivalent, on
28 a full-time basis assigned to an eligible computer data center and
29 receiving a wage equivalent to or greater than 125 percent of the per
30 capita personal income of the county in which the qualified project
31 is located as published by the employment security department. The
32 per capita personal income to be used to determine qualification for
33 any year is the amount that was established for the immediate prior
34 year.

35 (B) An employment position may not be counted as a family wage
36 employment position unless the employment position is entitled to
37 health insurance coverage provided by the employer of the employment
38 position.

39 (C) "New permanent employment position" means an employment
40 position that did not exist or that had not previously been filled as

1 of the date that the department issued an exemption certificate to
2 the qualifying business or qualifying tenant of an eligible computer
3 data center, as the case may be.

4 (ii) (A) Family wage employment positions include positions filled
5 by employees of the qualifying business and by employees of
6 qualifying tenants.

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

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

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

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

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

36 (v) If the department is notified that a qualifying business or
37 qualifying tenant fails to meet the requirements of this subsection
38 (3), the department may require a qualifying business or qualifying
39 tenant to submit records necessary to determine whether the
40 requirements have been met.

1 (4) For exemption certificates issued on or after June 9, 2022:

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

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

8 (ii) Energy star;

9 (iii) Envision;

10 (iv) ISO 50001-energy management;

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

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

15 (vii) UL 3223; or

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

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

20 (c) (i) For a qualifying business or qualifying tenant that does
21 not meet the requirements of this subsection (4), all previously
22 exempted sales and use taxes are immediately due and payable, any
23 exemption certificate issued to that qualifying business or
24 qualifying tenant under this section is canceled, and an additional
25 10 percent penalty is assessed, except as described in (c) (ii) of
26 this subsection (4).

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

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

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

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

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

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

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

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

25 (8)(a) The certificate holder may not at any time assign or
26 transfer a certificate without the prior written consent of the
27 department. The department must allow certificate transfers if the
28 certificate holder meets the following requirements:

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

31 (ii) The assignee or transferee acknowledges the transfer of the
32 certificate in writing;

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

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

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

39 (B) Acquires all or substantially all of the stock or assets of
40 the certificate holder; or

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

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

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

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

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

15 (c) "Certificate of occupancy" means:

16 (i) For a newly constructed eligible computer data center, the
17 certificate of occupancy issued by a local governing authority for
18 the structure or structures which comprise the eligible computer data
19 center; or

20 (ii) For renovations of an eligible computer data center, the
21 certificate of occupancy issued by a local governing authority for
22 the renovated structure or structures that comprise the eligible
23 computer data center.

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

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

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

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

11 (f) (i) "Eligible computer data center" means a computer data
12 center having at least 20,000 square feet dedicated for housing
13 working servers.

14 (ii) Movable or fixed stand-alone, prefabricated, or modular
15 units, including intermodal shipping containers, do not qualify as
16 "eligible computer data centers."

17 (iii) Computer data centers refurbished on or after July 1, 2026,
18 do not qualify as "eligible computer data centers."

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

28 (h) (i) "Eligible server equipment" means for a qualifying
29 business whose computer data center qualifies as an eligible computer
30 data center, the original server equipment installed in an eligible
31 computer data center on or after June 9, 2022 (~~(, and replacement~~
32 ~~server equipment)~~).

33 ~~(ii) ((For purposes of this subsection (9) (h), "replacement~~
34 ~~server equipment" means server equipment that:~~

35 ~~(A) Replaces existing server equipment, if the sale or use of the~~
36 ~~server equipment to be replaced qualified for an exemption under this~~
37 ~~section or RCW 82.12.9861; and~~

38 ~~(B) Is installed and put into regular use within 10 years of June~~
39 ~~9, 2022.~~

1 ~~(iii)) For a qualifying tenant who leases space within an~~
2 ~~eligible computer data center, "eligible server equipment" means the~~
3 ~~original server equipment installed within the space it leases from~~
4 ~~an eligible computer data center with an exemption certificate on or~~
5 ~~within 10 years of June 9, 2022 (, and replacement server equipment.~~
6 ~~For purposes of this subsection (9) (h) (iii), "replacement server~~
7 ~~equipment" means server equipment that:~~

8 ~~(A) (I) Replaces existing server equipment, if the sale or use of~~
9 ~~the server equipment to be replaced qualified for an exemption under~~
10 ~~this section or RCW 82.12.9861 and is installed and put into regular~~
11 ~~use before July 1, 2027; or~~

12 ~~(II) Replaces existing server equipment in a computer data center~~
13 ~~that meets the following requirements: Was ineligible before June 9,~~
14 ~~2022, for the exemptions provided under this section and RCW~~
15 ~~82.12.9861; has been refurbished; and to which a valid exemption~~
16 ~~certificate applies; and~~

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

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

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

38 (k) (i) "Refurbished" or "refurbishment" means a substantial
39 improvement to an eligible computer data center for which a
40 certificate of occupancy is not issued. Such an improvement must

1 update or modernize servers, server space, ventilation, or power
2 infrastructure in an eligible computer data center.

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

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

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

28 NEW SECTION. **Sec. 4.** Sections 2 and 3 of this act take effect
29 July 1, 2026.

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